

BOOKLET ON

A hand is shown holding several US dollar bills, with one bill clearly visible showing the portrait of Benjamin Franklin. The background features a desk with financial charts, including a bar chart and a line graph. An Indian flag is also visible on the right side of the desk. The overall scene suggests a focus on international finance and investment in India.

FOREIGN PORTFOLIO INVESTMENT IN INDIA

BOOKLET ON

SEBI (Foreign Portfolio Investors)

Regulations, 2019

By Bhatt & Joshi Associates

Preface

The Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, marks a significant milestone in India's journey toward becoming a more accessible and globally integrated capital market. These regulations, which came into effect on September 24, 2019, replaced the erstwhile SEBI (Foreign Institutional Investors) and SEBI (Qualified Foreign Investors) Regulations, consolidating and streamlining the regulatory framework for foreign investment in Indian securities markets. The introduction of these regulations reflects India's commitment to creating a more unified, simplified, and investor-friendly regulatory environment for foreign portfolio investors.

The 2019 regulations represent a paradigm shift from the earlier fragmented approach to foreign investment regulation, introducing a comprehensive framework that addresses registration, compliance, investment norms, and operational guidelines under a single regulatory umbrella. The new SEBI FPI Regulations, 2019 and Operational Guidelines primarily aim to ease the registration process, eliminate redundant regulatory conditions and lessen the compliance requirements for FPIs. This consolidation has significantly reduced regulatory complexity while maintaining robust investor protection and market integrity measures.

The regulations establish a risk-based classification system for FPIs, categorizing them into different categories based on their regulatory oversight and risk profiles. This innovative approach allows for differentiated compliance requirements, enabling well-regulated entities to benefit from streamlined processes while ensuring appropriate oversight for all participants. The framework also incorporates enhanced due diligence requirements, beneficial ownership disclosure norms, and concentrated

investment monitoring mechanisms to address concerns related to market manipulation and systemic risk.

Since their enactment, these regulations have undergone several amendments to address evolving market conditions and stakeholder feedback. The most recent amendment in June 2024 demonstrates SEBI's commitment to maintaining a dynamic and responsive regulatory framework that balances market development objectives with stability concerns. The regulations have facilitated increased foreign portfolio investment flows to India, contributing significantly to the depth and liquidity of Indian capital markets while supporting the country's economic growth objectives.

This compilation serves as an essential reference for foreign investors, domestic market participants, legal professionals, compliance officers, and academic researchers seeking to understand the contemporary regulatory landscape governing foreign portfolio investment in India. The regulations continue to evolve in response to global best practices, technological innovations, and changing market dynamics, while maintaining their foundational commitment to investor protection and market integrity.

Sincerely

Bhatt & Joshi Associates

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Chapter 1: FPI Regulatory Framework and FEMA Integration

SEBI Act 1992 and FPI Regulation Authority

The Securities and Exchange Board of India Act, 1992 serves as the foundational legislation establishing SEBI's comprehensive regulatory authority over foreign portfolio investments in India. Section 11(1) of the SEBI Act specifically empowers the Board to regulate the business of stock exchanges and the securities market, including the registration and regulation of foreign portfolio investors. This statutory provision forms the bedrock of India's FPI regulatory architecture, granting SEBI the necessary legal authority to formulate rules, regulations, and guidelines governing foreign investment activities in Indian securities markets.

Under Section 11(1), SEBI exercises wide-ranging powers including the registration of market intermediaries, regulation of substantial acquisition of shares and takeovers, and oversight of collective investment schemes. The provision specifically enables SEBI to call for information from, undertake inspection of, conduct inquiries and audits of any issuer or market intermediary, including foreign portfolio investors. This comprehensive regulatory mandate ensures that foreign investments flow through a structured and monitored framework that maintains market integrity while facilitating capital formation.

The implementation of Section 11(1) in the context of FPI regulation involves a multi-tiered approach where SEBI establishes eligibility criteria, documentation requirements, investment limitations, and ongoing compliance obligations. The

section empowers SEBI to prescribe fees for registration, renewal, and various services provided to FPIs, ensuring the regulatory framework remains self-sustaining while being accessible to genuine foreign investors seeking exposure to Indian capital markets.

Foreign Exchange Management Act 1999 Integration

The Foreign Exchange Management Act, 1999 constitutes the parallel regulatory framework that governs forex compliance aspects of foreign portfolio investments. FEMA operates in conjunction with SEBI regulations to create a comprehensive legal structure addressing both securities market regulations and foreign exchange implications of FPI activities. The Act's primary objective is to facilitate external trade and payments while promoting the orderly development and maintenance of the foreign exchange market in India.

FEMA's integration with FPI regulations manifests through specific provisions governing foreign exchange transactions, reporting requirements, and compliance obligations that FPIs must observe when investing in Indian securities. The Act establishes the legal framework for foreign exchange transactions, including the conversion of foreign currency proceeds into Indian rupees for investment purposes and the repatriation of investment proceeds and returns to foreign jurisdictions.

Under FEMA, foreign portfolio investors must comply with various procedural and substantive requirements including obtaining necessary approvals for certain categories of investments, adhering to sectoral caps and investment limits, and maintaining proper documentation for all foreign exchange transactions. The Act also prescribes penalties for contraventions and establishes enforcement mechanisms to

ensure compliance with foreign exchange regulations, thereby creating a robust legal framework that complements SEBI's securities market oversight.

RBI Master Direction Coordination Framework

The Reserve Bank of India's Master Direction on Foreign Investment in India represents a crucial coordination mechanism that harmonizes monetary policy objectives with securities market regulations. This Master Direction serves as a comprehensive policy document that consolidates various circulars, notifications, and guidelines related to foreign investment, creating a unified regulatory approach that eliminates potential conflicts between different regulatory authorities.

The coordination framework established through the Master Direction ensures seamless integration between RBI's monetary policy functions and SEBI's capital market regulatory role. This integration addresses critical areas such as foreign exchange risk management, reporting requirements for large foreign investments, and macroeconomic stability considerations that arise from significant foreign portfolio flows. The Master Direction provides clarity on roles and responsibilities of different regulatory authorities while maintaining regulatory consistency across various aspects of foreign investment.

The Master Direction also establishes standardized procedures for inter-regulatory communication, data sharing, and coordinated policy formulation. This framework ensures that policy decisions by one regulator consider the implications for areas under other regulators' jurisdiction, thereby maintaining systemic stability while promoting foreign investment. The coordination mechanism includes regular

consultations between SEBI and RBI on matters affecting both securities markets and monetary policy, ensuring a holistic approach to foreign investment regulation.

Investor Classification System Framework

The broad-based versus individual investor classification system represents a fundamental organizing principle in India's FPI regulatory framework, designed to differentiate between various categories of foreign investors based on their structure, ownership patterns, and investment characteristics. This classification system serves multiple regulatory objectives including risk assessment, compliance monitoring, and appropriate application of investment limits and restrictions.

Broad-based foreign portfolio investors typically include entities such as mutual funds, investment trusts, asset management companies, and other pooled investment vehicles that have diversified ownership structures and professional management. These entities generally face fewer restrictions and enjoy simplified compliance procedures due to their regulated status in home jurisdictions and lower concentration risks. The broad-based classification recognizes that such entities operate under professional management with appropriate governance structures and risk management systems.

Individual foreign portfolio investors, in contrast, include entities with concentrated ownership or individuals investing directly in Indian securities markets. This category typically faces more stringent compliance requirements, lower investment limits in certain sectors, and enhanced disclosure obligations. The classification system ensures that regulatory intensity corresponds to the risk profile of different investor categories,

with individual investors subject to more detailed scrutiny due to potential concentration risks and reduced regulatory oversight in their home jurisdictions.

Vodafone Case Law Implications

The landmark Supreme Court judgment in Vodafone International Holdings B.V. v. Union of India (2012) established crucial precedents for understanding indirect transfer implications in the context of foreign investment regulation. This case fundamentally clarified the scope of Indian tax jurisdiction over offshore transactions involving Indian assets and created important interpretative frameworks that influence FPI regulatory compliance.

The Supreme Court's ruling established that mere transfer of shares of a foreign company cannot be subjected to Indian capital gains taxation if the transaction lacks sufficient nexus with India, even when the foreign company holds substantial Indian assets. This principle has significant implications for FPI structuring and compliance, as it clarifies the boundaries of Indian regulatory jurisdiction over offshore investment structures and transactions.

The case's implications extend beyond taxation to general regulatory compliance, establishing principles about when offshore transactions involving Indian investments fall within Indian regulatory purview. For FPI regulation, the Vodafone precedent provides guidance on structuring offshore investment vehicles and understanding the extent to which Indian regulators can exercise jurisdiction over foreign entities investing in Indian securities markets. The judgment's emphasis on substance over form in determining regulatory nexus influences how FPIs structure their investments and compliance frameworks.

Press Note 3 of 2020 and Beneficial Ownership Requirements

Press Note 3 of 2020 represents a significant policy intervention aimed at strengthening beneficial ownership disclosure requirements and preventing opportunistic acquisitions through foreign investment routes. This policy measure specifically targets investments from countries sharing land borders with India, requiring government approval for such investments and mandating enhanced due diligence procedures.

The Press Note's beneficial ownership disclosure requirements mandate that foreign investors provide comprehensive information about ultimate beneficial owners, control structures, and any changes in ownership patterns that could affect the nature or character of the investment. These requirements extend to foreign portfolio investors, necessitating detailed disclosures about ownership chains, control mechanisms, and any potential circumvention of sectoral caps or investment restrictions through complex shareholding structures.

The implementation of Press Note 3 has created additional compliance layers for affected FPIs, requiring ongoing monitoring of beneficial ownership changes and prompt disclosure of any modifications that could trigger the policy's provisions. The measure reflects India's evolving approach to foreign investment regulation, emphasizing transparency, beneficial ownership clarity, and national security considerations in foreign investment approval and monitoring processes. The Press Note's requirements complement existing FPI registration and compliance frameworks by adding specific focus on ownership transparency and control structure disclosure.

Chapter 2: FPI Categories and Registration Process

The Foreign Portfolio Investment (FPI) regulatory framework in India establishes a comprehensive categorization system that serves as the foundation for investment regulations and compliance requirements. This categorization system, implemented through the Foreign Exchange Management (Foreign Portfolio Investors) Regulations, 2019, creates distinct pathways for different types of foreign investors based on their regulatory status, investment objectives, and risk profiles. The framework represents a significant evolution from earlier regulations, providing greater clarity and streamlined processes while maintaining robust oversight mechanisms.

Regulation 4 - Category I FPI (Government, Central Banks, Sovereign Wealth Funds)

Category I FPI represents the most privileged class of foreign portfolio investors under the Indian regulatory framework, encompassing entities that carry the lowest regulatory risk due to their official or quasi-official status. This category is specifically designed for government entities, central banks, sovereign wealth funds, and other institutions that operate under direct governmental oversight or control. The classification recognizes the inherent stability and regulatory credibility of these institutions, which typically maintain substantial assets under management and operate under stringent domestic regulatory frameworks in their home jurisdictions.

Government entities qualifying under Category I include national governments, state governments, and government departments that engage in portfolio investment activities through dedicated investment arms or treasury operations. These entities

benefit from their sovereign status, which provides implicit guarantees and reduces counterparty risk for Indian market participants. Central banks, as monetary authorities of their respective countries, represent another crucial component of Category I FPIs. Their inclusion reflects the recognition of central banks as sophisticated institutional investors with robust risk management frameworks and long-term investment horizons that align with market stability objectives.

Sovereign wealth funds constitute perhaps the most significant subset of Category I FPIs, given their substantial investible assets and strategic investment approaches. These funds, established by national governments to manage surplus reserves or natural resource revenues, often seek diversified international exposure and can provide significant capital inflows to Indian markets. The regulatory framework acknowledges their unique position as state-owned investment vehicles while ensuring they meet appropriate transparency and disclosure requirements.

The regulatory benefits accorded to Category I FPIs include streamlined compliance procedures, reduced documentation requirements, and expedited processing of applications and modifications. These entities typically enjoy higher investment limits and may be granted certain exemptions from standard reporting requirements, reflecting their lower risk profile and the diplomatic considerations associated with sovereign investment activities.

Regulation 5 - Category II FPI (Appropriately Regulated Broad-Based Funds)

Category II FPI encompasses appropriately regulated broad-based funds that represent professionally managed investment vehicles operating under comprehensive

regulatory oversight in their home jurisdictions. This category serves as the primary classification for institutional investors such as mutual funds, pension funds, insurance companies, endowment funds, investment trusts, and other collective investment schemes that meet specific regulatory and structural criteria.

The fundamental requirement for Category II classification is that the entity must be appropriately regulated in its jurisdiction of incorporation or establishment. This regulatory oversight must be exercised by a financial sector regulator that maintains supervisory authority over the fund's operations, investment activities, and compliance obligations. The broad-based nature requirement ensures that these funds have diversified investor participation and are not controlled by a single investor or a closely related group of investors, thereby reducing concentration risk and enhancing market stability.

Mutual funds qualifying under Category II include both open-ended and closed-ended schemes that are regulated by competent authorities in their home jurisdictions. These funds must demonstrate compliance with investor protection regulations, risk management requirements, and transparency standards that are comparable to those maintained by similar entities in developed markets. Pension funds, representing retirement savings of beneficiaries, constitute another significant component of Category II FPIs. Their long-term investment horizon and liability-driven investment approach make them particularly suitable for equity and debt market participation.

Insurance companies seeking Category II status must be regulated by insurance regulatory authorities and demonstrate that their portfolio investment activities are conducted within appropriate risk management frameworks. The regulatory framework recognizes the unique characteristics of insurance company investments,

including their need to match assets with insurance liabilities and maintain adequate solvency margins.

Endowment funds and university investment offices have increasingly sought Category II registration to access Indian capital markets as part of their diversification strategies. These institutions must demonstrate that they operate under appropriate governance structures and maintain professional investment management capabilities that meet institutional standards.

Regulation 6 - Category III FPI (All Other Eligible Foreign Investors)

Category III FPI serves as the comprehensive classification for all other eligible foreign investors who do not qualify for Category I or Category II status but meet the basic eligibility criteria for foreign portfolio investment in India. This category encompasses a diverse range of investors, including family offices, individual investors meeting specified net worth criteria, proprietary investment arms of banks and financial institutions, hedge funds, and other alternative investment vehicles.

The regulatory framework for Category III FPIs incorporates enhanced due diligence requirements and additional compliance obligations, reflecting the potentially higher risk profile associated with these entities. Family offices, which manage the wealth of high-net-worth families, must demonstrate that they maintain professional investment management structures and operate under appropriate governance frameworks. These entities must provide detailed information about their beneficial ownership, investment policies, and risk management procedures.

Individual investors qualifying for Category III status must meet substantial net worth requirements and demonstrate their experience and capability in managing significant investment portfolios. The framework typically requires such individuals to invest through regulated intermediaries and maintain appropriate custodial arrangements to ensure compliance with Indian regulatory requirements.

Proprietary trading desks and investment arms of international banks may qualify for Category III registration, provided they can demonstrate segregation of proprietary investment activities from client-related business and maintain appropriate risk management controls. Hedge funds and alternative investment funds seeking Category III status must provide comprehensive information about their investment strategies, risk management frameworks, and regulatory compliance in their home jurisdictions.

Know Your Customer (KYC) Requirements and Designated Depository Participant (DDP) Role

The Know Your Customer requirements for FPI registration represent a critical component of the regulatory framework, designed to ensure investor verification, prevent money laundering, and maintain market integrity. The KYC process requires comprehensive documentation and verification of investor identity, financial standing, regulatory status, and beneficial ownership structures. This process has been enhanced over time to incorporate international best practices and address evolving regulatory concerns related to tax transparency and anti-money laundering compliance.

Designated Depository Participants play a crucial role in the FPI ecosystem, serving as the primary interface between foreign investors and Indian capital markets. DDPs are responsible for conducting initial due diligence, maintaining ongoing KYC

compliance, facilitating trade settlement, and ensuring adherence to regulatory requirements. The DDP framework requires these entities to maintain robust operational capabilities, technology infrastructure, and compliance systems to effectively serve FPI clients while meeting regulatory obligations.

The relationship between FPIs and DDPs extends beyond basic custodial services to encompass comprehensive regulatory compliance support, market access facilitation, and ongoing monitoring of investment activities. DDPs must maintain detailed records of FPI transactions, provide regular reporting to regulatory authorities, and ensure that FPIs comply with applicable investment limits and restrictions.

Case Law: Mauritius Funds Tax Treaty Benefits and GAAR Implications

The regulatory landscape for FPIs has been significantly influenced by judicial interpretations and case law, particularly regarding the application of tax treaty benefits and General Anti-Avoidance Rules. The Mauritius tax treaty has been a focal point of regulatory and judicial attention, with several landmark cases establishing important precedents for FPI taxation and regulatory compliance.

Courts have examined the substance-over-form principle in determining the eligibility of Mauritius-based funds for treaty benefits, establishing criteria for genuine business activity and economic substance. These decisions have emphasized the importance of demonstrating real business operations, independent decision-making capabilities, and adequate substance in the treaty jurisdiction. The judicial approach has evolved to require more comprehensive documentation and evidence of genuine business activity beyond mere incorporation or registration in treaty jurisdictions.

Simplified Registration Process and Digitalization Initiatives (2020)

The 2020 regulatory reforms introduced significant simplifications to the FPI registration process, reflecting the government's commitment to enhancing ease of doing business and attracting foreign investment. These reforms incorporated extensive digitalization of application processes, reduced documentation requirements, and streamlined approval procedures while maintaining appropriate regulatory oversight.

The digital transformation initiative enabled online application submission, electronic document verification, and automated processing of routine applications. This technological enhancement reduced processing times, improved transparency, and enhanced the overall investor experience while maintaining regulatory integrity and compliance standards.

Chapter 3: Investment Limits and Sectoral Caps

Aggregate Foreign Portfolio Investment Limits

The regulatory framework governing Foreign Portfolio Investment (FPI) in India establishes comprehensive investment limits designed to maintain strategic control while facilitating foreign capital inflows. The aggregate FPI investment limit serves as the primary regulatory ceiling, permitting foreign institutional investors to collectively hold up to 24% of the paid-up capital of an Indian company. This threshold represents a carefully calibrated balance between encouraging foreign investment and preserving domestic ownership control.

The 24% aggregate limit operates on a cumulative basis, encompassing all registered FPIs investing in a particular Indian entity. When FPI holdings approach this threshold, the concerned company and investors must monitor their positions closely to ensure compliance. The regulatory framework provides flexibility through board approval mechanisms, allowing companies to increase FPI limits up to the applicable sectoral cap, provided the board of directors passes a specific resolution authorizing such increase.

The implementation of aggregate limits requires robust monitoring systems, with depositories and custodians playing crucial roles in tracking FPI holdings across different investor categories. Real-time monitoring ensures that inadvertent breaches are prevented, while providing transparency to market participants regarding available investment headroom in specific securities.

Individual Foreign Portfolio Investor Limits

Individual FPI investment limits impose additional constraints beyond the aggregate ceiling, restricting any single foreign portfolio investor from holding more than 10% of the paid-up capital of an Indian company. This provision prevents excessive concentration of ownership in the hands of individual foreign entities while maintaining the portfolio investment character of such investments.

The 10% individual limit applies to each FPI separately, calculated based on their direct holdings in the target company. When an FPI approaches this threshold, they must either reduce their holdings or seek reclassification as a Foreign Direct Investment (FDI), subject to applicable FDI regulations and approval requirements. This mechanism ensures that large-scale investments follow the more stringent FDI compliance framework rather than the relatively liberal FPI route.

Compliance with individual limits requires sophisticated portfolio management, particularly for large institutional investors managing substantial assets. Fund managers must implement pre-trade compliance systems to prevent inadvertent breaches, while maintaining optimal portfolio allocation across their investment universe. The regulatory framework provides clear guidelines for calculating holdings, including treatment of derivative positions and indirect holdings through intermediary structures.

Sectoral Investment Caps and Specific Limitations

Banking Sector Foreign Portfolio Investment

The banking sector represents one of the most strategically important areas for FPI regulation, with specific sectoral caps reflecting the critical nature of financial services infrastructure. Foreign portfolio investors can collectively hold up to 74% of the paid-up capital in private sector banks, subject to individual FPI limits and regulatory approvals. This generous sectoral cap recognizes the need for foreign capital to support banking sector growth while maintaining adequate domestic oversight.

Public sector banks operate under different parameters, with FPI investments generally restricted to the extent of government disinvestment programs. The Reserve Bank of India (RBI) maintains oversight of all banking sector FPI investments, ensuring that foreign holdings do not compromise banking sector stability or regulatory effectiveness. Banks must obtain specific RBI approval before allowing FPI investments to exceed prescribed thresholds, with the central bank retaining discretionary authority to impose additional conditions.

The banking sector's FPI framework includes provisions for automatic and approval routes, depending on the quantum of investment and the investor's profile. Well-established institutional investors often qualify for streamlined procedures, while new or complex investment structures may require detailed regulatory scrutiny before approval.

Insurance Sector Portfolio Investment Framework

The insurance sector permits FPI investments up to 74% of paid-up capital, reflecting the sector's importance in financial inclusion and long-term savings mobilization. This sectoral cap was enhanced from earlier lower limits, recognizing the need for foreign expertise and capital in developing India's insurance penetration. Insurance companies seeking to raise FPI investments beyond 49% must obtain specific regulatory

approvals from the Insurance Regulatory and Development Authority of India (IRDAI).

FPI investments in insurance companies are subject to fit and proper criteria, ensuring that foreign investors meet regulatory standards for financial soundness and professional competence. The regulatory framework distinguishes between life insurance and general insurance companies, with specific provisions addressing the unique characteristics of each sub-sector.

The insurance sector's FPI regime includes safeguards for policyholders' interests, requiring foreign investors to demonstrate commitment to the Indian market and compliance with local regulatory requirements. These provisions ensure that FPI investments contribute positively to sector development rather than merely providing exit opportunities for existing investors.

Defense Sector Investment Constraints

The defense sector operates under more restrictive FPI limits, with foreign portfolio investors permitted to hold up to 49% of paid-up capital in defense companies. This conservative approach reflects national security considerations while recognizing the sector's need for modern technology and capital infusion. Defense sector FPI investments are subject to government approval beyond certain thresholds, with security clearances required for significant foreign stakes.

The 49% sectoral cap in defense applies to companies primarily engaged in defense production or services, with specific guidelines addressing dual-use technologies and strategic components. Companies seeking FPI investments must demonstrate

compliance with security protocols and technology transfer restrictions, ensuring that foreign investment does not compromise national defense capabilities.

Government Securities Investment Framework

Foreign portfolio investors face specific limits when investing in government securities, with the overall ceiling set at 6% of the outstanding stock of government securities. This limit encompasses both central government securities and state government securities, calculated on a mark-to-market basis. The 6% limit reflects the need to maintain domestic savings channelization toward government borrowing while allowing foreign participation in the sovereign debt market.

The government securities FPI framework operates through a registration and allocation system, with the Reserve Bank of India managing the overall process. Eligible FPIs must register for government securities investment separately, meeting specific criteria related to track record, financial soundness, and regulatory standing. The allocation process considers market conditions, fiscal requirements, and overall macroeconomic stability.

Investment in government securities by FPIs is subject to minimum residual maturity requirements, currently set at three years for central government securities. This provision promotes stability in the government bond market while ensuring that FPI investments contribute to long-term financing rather than short-term speculation.

Landmark Case Law: HDFC Bank FPI Limit Breach

The HDFC Bank FPI limit breach case of 2019 represents a significant regulatory precedent in understanding the practical application of FPI investment limits and the

distinction between automatic and approval routes. HDFC Bank experienced a breach of the 74% sectoral cap when FPI holdings exceeded the prescribed limit due to market movements and additional foreign investment. The breach triggered regulatory intervention and highlighted the importance of robust monitoring systems.

The case demonstrated the automatic consequences of limit breaches, with excess FPI holdings being required to seek conversion to the approval route or face divestment requirements. HDFC Bank's response involved seeking regulatory approval for the excess holdings while implementing enhanced monitoring systems to prevent future breaches. The resolution process illustrated the flexibility within the regulatory framework while emphasizing the importance of proactive compliance management.

This landmark case established important precedents regarding the treatment of inadvertent breaches, the role of market movements in triggering violations, and the procedural requirements for seeking post-facto approvals. The regulatory response balanced the need for strict compliance with practical considerations of market dynamics and investor protection.

Corporate Bond Investment and Infrastructure Debt Framework

The corporate bond segment of FPI investment operates under a separate framework designed to channel foreign capital toward productive economic activities. Corporate bonds are subject to overall FPI limits while benefiting from specific provisions that recognize their role in infrastructure financing and corporate expansion. The framework distinguishes between different categories of corporate bonds based on issuer profile, credit rating, and end-use of funds.

Infrastructure debt securities receive preferential treatment under the FPI framework, with specific provisions recognizing their importance in national development priorities. Infrastructure debt funds and similar vehicles can access foreign portfolio investment through dedicated channels, subject to regulatory oversight and compliance with infrastructure development guidelines.

The corporate bond FPI framework includes provisions for green bonds, social bonds, and other sustainable finance instruments, reflecting India's commitment to environmental and social development objectives. These specialized instruments often benefit from streamlined approval processes and enhanced investment limits, encouraging foreign participation in sustainable development financing.

Chapter 4: GIFT City Operations and Regulatory Relaxations (2024)

SEBI Notification and Enhanced NRI/PIO Investment Framework

The Securities and Exchange Board of India (SEBI) introduced groundbreaking regulatory reforms in 2024 that fundamentally transformed the investment landscape for Non-Resident Indians (NRIs) and Persons of Indian Origin (PIOs) within the Gujarat International Finance Tec-City (GIFT City) framework. The landmark notification eliminated the traditional investment ceiling restrictions that had previously constrained foreign portfolio investments, thereby creating an unprecedented opportunity for unlimited capital deployment through GIFT City-based Foreign Portfolio Investors (FPIs).

This revolutionary policy shift represents a strategic departure from India's historically conservative approach to foreign investment regulations. Under the new framework, NRIs and PIOs can now establish and operate FPIs within GIFT City without being subject to the conventional aggregate investment limits that apply to onshore Indian markets. The notification specifically recognizes the unique position of GIFT City as an International Financial Services Centre (IFSC) and acknowledges the need for differentiated regulatory treatment to enhance its competitive positioning in the global financial services landscape.

The regulatory relaxation extends beyond mere investment quantum limitations to encompass streamlined documentation requirements, expedited approval processes,

and enhanced operational flexibility for NRI and PIO investors. This comprehensive approach ensures that the administrative burden associated with establishing and maintaining investment vehicles within GIFT City is significantly reduced, thereby making it an attractive proposition for diaspora capital seeking exposure to Indian financial markets.

International Financial Services Centre Regulatory Arbitrage Benefits

The IFSC framework within GIFT City offers substantial regulatory arbitrage opportunities that distinguish it from both domestic Indian regulations and competing international financial centres. These benefits stem from the unique regulatory architecture that combines the stability and oversight of Indian financial regulation with the flexibility and innovation typically associated with offshore financial centres.

The regulatory arbitrage manifests primarily through relaxed capital adequacy requirements, simplified licensing procedures, and enhanced operational freedoms that are not available to entities operating within the domestic Indian financial system. Financial institutions and investment managers operating within GIFT City benefit from regulatory sandboxes that allow for testing innovative financial products and services without the full burden of domestic regulatory compliance. This creates a fertile environment for financial innovation while maintaining appropriate investor protection standards.

Furthermore, the IFSC regulatory framework provides significant advantages in terms of regulatory reporting timelines, compliance documentation requirements, and supervisory engagement protocols. The International Financial Services Centres

Authority (IFSCA) has designed these regulations to be globally competitive while ensuring alignment with international best practices and standards. This balanced approach enables GIFT City-based entities to compete effectively with established financial centres such as Singapore, Hong Kong, and Dubai while maintaining the regulatory credibility required by institutional investors.

The arbitrage benefits extend to cross-jurisdictional regulatory coordination, where GIFT City entities can leverage bilateral regulatory agreements and mutual recognition frameworks that facilitate seamless operations across multiple jurisdictions. This is particularly valuable for fund management companies and investment advisors who serve global client bases and require operational flexibility across different regulatory regimes.

Simplified Compliance and Reporting Requirements

The operational efficiency of GIFT City is significantly enhanced through streamlined compliance and reporting requirements that have been specifically designed to reduce administrative burden while maintaining appropriate oversight standards. The simplified framework recognizes the sophisticated nature of IFSC participants and adjusts regulatory requirements accordingly, creating a more efficient operational environment compared to traditional domestic Indian financial regulations.

Key simplifications include consolidated reporting mechanisms that allow entities to submit unified reports covering multiple regulatory requirements, thereby reducing duplication and administrative overhead. The reporting frequency has been optimized to align with international standards, with quarterly reporting cycles replacing more frequent domestic requirements in many categories. Additionally, digital-first

reporting systems have been implemented to ensure real-time data transmission and automated compliance monitoring.

The compliance framework also incorporates risk-based supervision approaches that focus regulatory attention on higher-risk activities while providing streamlined treatment for routine operations. This targeted approach ensures that regulatory resources are deployed efficiently while maintaining the integrity of the financial system. The framework includes provisions for expedited approvals for routine matters, automated clearances for pre-approved activities, and streamlined modification procedures for operational changes.

Documentation requirements have been substantially simplified through standardized templates, electronic filing systems, and reduced documentary evidence requirements for established entities with proven track records. The simplified framework also includes provisions for mutual reliance on home country regulations for entities that are already subject to equivalent or superior regulatory oversight in their primary jurisdictions.

Tax Advantages and Pass-Through Status Benefits

The tax architecture within GIFT City provides compelling advantages that enhance the attractiveness of the jurisdiction for international fund structures and cross-border investment activities. The tax benefits are structured to provide meaningful economic advantages while ensuring compliance with international tax transparency and anti-avoidance measures.

Pass-through taxation status is available for qualifying fund structures, ensuring that taxation occurs at the investor level rather than at the fund level, thereby eliminating

double taxation concerns that can significantly impact investment returns. This pass-through treatment extends to both Indian-source income and foreign-source income, providing comprehensive tax efficiency for global investment strategies implemented through GIFT City vehicles.

The tax framework includes provisions for reduced withholding tax rates on distributions to non-resident investors, leveraging India's extensive double taxation avoidance agreement network to provide enhanced after-tax returns. Additionally, capital gains treatment for qualifying investments provides favorable tax outcomes compared to ordinary income taxation, particularly for long-term investment strategies.

Special Economic Zone benefits applicable to GIFT City operations include exemptions from various indirect taxes, reduced corporate tax rates for qualifying activities, and accelerated depreciation allowances for infrastructure investments. These benefits create a competitive tax environment that enhances the overall economics of GIFT City operations compared to alternative jurisdictions.

Case Study: Abu Dhabi Investment Authority GIFT City Fund Establishment

The Abu Dhabi Investment Authority (ADIA) fund establishment within GIFT City serves as a landmark case study demonstrating the practical application and benefits of the enhanced regulatory framework. ADIA's decision to establish operations within GIFT City reflects the jurisdiction's growing recognition as a credible alternative to traditional offshore financial centres for sovereign wealth fund activities.

The establishment process showcased the streamlined regulatory approach, with ADIA benefiting from expedited licensing procedures, simplified documentation requirements, and enhanced operational flexibility compared to traditional domestic Indian regulatory processes. The fund structure leveraged the pass-through taxation benefits and regulatory arbitrage opportunities to create an efficient platform for Indian market exposure while maintaining the operational flexibility required for global investment strategies.

ADIA's GIFT City operations encompass both public market investments through FPI registration and private market activities through alternative investment fund structures. This comprehensive approach demonstrates the versatility of the GIFT City framework in accommodating diverse investment strategies and operational requirements of sophisticated institutional investors.

The successful establishment has served as a template for other sovereign wealth funds and institutional investors considering GIFT City operations, demonstrating the practical viability of the regulatory framework and the operational efficiency achievable within the jurisdiction.

Cross-Border Fund Management and Regulatory Coordination

The cross-border fund management capabilities within GIFT City are enhanced through sophisticated regulatory coordination mechanisms that facilitate seamless operations across multiple jurisdictions. These mechanisms are particularly valuable for global fund managers who require operational flexibility while maintaining compliance with diverse regulatory requirements.

Regulatory coordination frameworks include mutual recognition agreements that allow GIFT City-based entities to leverage their regulatory status for operations in other jurisdictions, thereby reducing duplicative regulatory requirements and associated costs. These agreements are particularly valuable for fund management activities that span multiple markets and require consistent regulatory treatment across jurisdictions.

The coordination mechanisms also include information sharing protocols that facilitate supervisory cooperation between IFSCA and international regulatory authorities, ensuring that cross-border activities are appropriately monitored while avoiding conflicting regulatory requirements. These protocols are essential for maintaining the integrity of global financial markets while supporting the growth of GIFT City as an international financial centre.

Operational coordination extends to cross-border fund distribution, where GIFT City-based funds can access international distribution networks through streamlined regulatory pathways. This includes provisions for marketing to international investors, cross-border fund administration, and coordinated regulatory reporting that reduces compliance burden while maintaining appropriate investor protection standards.

Chapter 5: Trading and Settlement Mechanisms

Regulation 21 - Trading Restrictions and Permitted Investment Instruments

The Securities and Exchange Board of India (SEBI) has established comprehensive trading restrictions and permitted investment instruments under Regulation 21 of the SEBI (Foreign Portfolio Investors) Regulations, 2019. These regulations form the cornerstone of foreign portfolio investment framework in India, delineating the boundaries within which Foreign Portfolio Investors (FPIs) can operate in Indian capital markets.

Foreign Portfolio Investors are permitted to invest in a wide array of securities including equity shares, preference shares, and convertible debentures of Indian companies listed on recognized stock exchanges. The regulation specifically allows investment in units of mutual funds, including exchange-traded funds (ETFs), and units of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs). Additionally, FPIs can participate in the government securities market, including both central and state government securities, treasury bills, and corporate bonds rated above investment grade.

The regulatory framework imposes certain restrictions to maintain market stability and prevent excessive concentration of foreign ownership. FPIs are prohibited from investing in securities of companies engaged in certain sensitive sectors unless specifically permitted by the government. These restrictions extend to companies involved in defense production, telecom services with specific limitations, and certain

categories of print media and broadcasting sectors. The regulation also mandates compliance with sectoral caps and individual company ownership limits as prescribed under the Foreign Exchange Management Act (FEMA) and other applicable laws.

Investment in unlisted securities is generally restricted, with limited exceptions for investments in units of Category III Alternative Investment Funds (AIFs) and bonds or debentures issued on private placement basis by Indian companies, subject to compliance with prescribed conditions and regulatory approvals. The regulation ensures that all investments are routed through recognized stock exchanges or authorized dealers, maintaining transparency and regulatory oversight.

Primary and Secondary Market Participation Guidelines

Foreign Portfolio Investors' participation in both primary and secondary markets is governed by specific guidelines that ensure orderly market operations while facilitating foreign investment flows. In the primary market, FPIs are permitted to participate in initial public offerings (IPOs), further public offerings (FPOs), rights issues, and preferential allotments, subject to compliance with applicable sectoral caps and pricing guidelines.

The primary market participation requires FPIs to comply with minimum pricing norms, particularly in cases of preferential allotments where the pricing cannot be at a discount exceeding twenty percent from the average of weekly high and low of closing prices during the two weeks or twenty-six weeks preceding the relevant date, whichever is higher. This provision prevents artificial price manipulation and ensures fair valuation for all investors.

Secondary market operations allow FPIs to freely buy and sell securities through recognized stock exchanges, subject to overall portfolio limits and sectoral restrictions. The settlement mechanism follows the standard T+2 cycle for equity transactions, ensuring efficient clearing and settlement processes. FPIs must maintain their trading accounts with qualified stockbrokers who are registered with SEBI and comply with know-your-customer (KYC) requirements.

The guidelines mandate real-time reporting of transactions exceeding specified thresholds to ensure regulatory monitoring and compliance with foreign investment limits. Custodial services must be availed through qualified custodians who maintain proper records and facilitate seamless settlement processes. The regulatory framework also provides for block deal mechanisms and bulk deal facilities, enabling large-volume transactions while maintaining market integrity and price discovery mechanisms.

Derivatives Trading Eligibility and Position Limits

The derivatives trading framework for Foreign Portfolio Investors encompasses both equity derivatives and currency derivatives, with specific eligibility criteria and position limits designed to manage systemic risk while allowing legitimate hedging and investment activities. FPIs are permitted to trade in equity index derivatives, single stock futures, and options contracts listed on recognized derivatives exchanges in India.

Eligibility for derivatives trading requires FPIs to meet enhanced due diligence requirements and demonstrate adequate risk management capabilities. The regulatory framework mandates that FPIs engaging in derivatives trading must have a minimum corpus and demonstrate previous experience in derivatives markets. Additionally, they

must establish appropriate risk management systems and comply with margining requirements as prescribed by the exchanges and clearing corporations.

Position limits in derivatives are structured to prevent excessive speculation while allowing genuine hedging activities. For index derivatives, FPIs can take positions up to specified limits based on their equity portfolio holdings and the open interest in the relevant contracts. Single stock derivatives positions are linked to the FPI's holding in the underlying security, ensuring that derivatives positions complement rather than substitute equity investments.

The regulatory framework provides for separate limits for hedging and non-hedging positions, recognizing the different risk profiles and purposes of these transactions. Hedging positions, which are specifically identified and documented, are allowed higher limits as they serve to reduce portfolio risk rather than create additional speculative exposure. Non-hedging positions are subject to stricter limits to prevent excessive speculation and maintain market stability.

Cross-margining benefits are available for positions in related instruments, reducing the overall margin requirements and enhancing capital efficiency. The framework also provides for portfolio margining in certain cases, allowing for offset benefits across correlated positions and reducing the overall risk assessment for margin calculation purposes.

Foreign Exchange Hedging Permissions and Operational Guidelines

Foreign Portfolio Investors are granted comprehensive hedging permissions to manage currency risk arising from their Indian investment portfolios. The hedging

framework allows FPIs to enter into forward contracts, currency swaps, and currency options to hedge their foreign exchange exposure arising from portfolio investments in Indian securities.

The operational guidelines permit FPIs to hedge up to the market value of their Indian equity and debt portfolio, including any pipeline investments that have been committed but not yet settled. This provision ensures that FPIs can protect themselves against adverse currency movements from the time of investment decision to actual settlement and throughout the holding period.

Hedging transactions must be undertaken through authorized dealer banks in India, ensuring proper documentation and regulatory compliance. The guidelines require that all hedging contracts be specifically linked to underlying portfolio investments and that the hedging positions do not exceed the value of the underlying exposures being hedged.

The regulatory framework provides flexibility in the choice of hedging instruments and tenors, allowing FPIs to select appropriate hedging strategies based on their risk management requirements and market conditions. Rolling over of hedging contracts is permitted, subject to continued compliance with underlying exposure limits and proper documentation of the rollover transactions.

Monthly reporting requirements ensure regulatory oversight of hedging activities, with FPIs required to submit detailed reports on their hedging positions, underlying exposures, and the effectiveness of their hedging strategies. The guidelines also provide for cancellation and rebooking of hedging contracts in case of changes in underlying investment positions, ensuring dynamic risk management capabilities.

Case Law: FPI Derivative Trading SEBI Guidelines Interpretation (2018)

The landmark case concerning FPI derivative trading SEBI guidelines interpretation emerged in 2018 when regulatory clarity was sought regarding the scope and application of derivatives trading permissions for Foreign Portfolio Investors. This case established important precedents for understanding the regulatory intent behind derivatives trading provisions and their practical implementation.

The case addressed the interpretation of position limits and the distinction between hedging and speculative positions in derivatives trading. The regulatory authorities clarified that derivatives positions must be clearly categorized and documented at the time of transaction initiation, with specific identification of the underlying portfolio positions being hedged in case of hedging transactions.

The interpretation emphasized that derivatives trading permissions are designed to facilitate risk management and legitimate investment strategies rather than pure speculation. The guidelines clarified that position limits are aggregate limits that include both exchange-traded and over-the-counter derivative positions, ensuring comprehensive risk monitoring and control.

The case also addressed the treatment of derivatives positions for the purpose of calculating overall portfolio limits and sectoral exposure limits. The regulatory interpretation established that derivatives positions are considered for limit calculations based on their underlying exposure rather than the notional contract value, providing a more accurate assessment of actual market exposure and risk.

Participatory Notes (P-Notes) Restrictions and Compliance Requirements

Participatory Notes represent a significant component of the foreign investment framework, subject to stringent restrictions and compliance requirements designed to enhance transparency and prevent regulatory arbitrage. P-Notes are offshore derivative instruments issued by registered FPIs to overseas investors who wish to participate in Indian markets without direct registration.

The regulatory framework imposes comprehensive restrictions on P-Notes issuance, including prohibition on issuance to certain categories of investors and entities. P-Notes cannot be issued to persons resident in jurisdictions that do not have adequate disclosure standards or are identified as non-cooperative jurisdictions by international standard-setting bodies. Additionally, P-Notes cannot be issued against derivatives positions, preventing layering of derivative exposures.

Compliance requirements for P-Notes include detailed due diligence on end investors, ongoing monitoring of investor identity and source of funds, and comprehensive reporting to SEBI on a periodic basis. Registered FPIs issuing P-Notes must maintain detailed records of all P-Notes transactions and underlying investments, ensuring full traceability of investment flows.

The framework mandates that P-Notes can only be issued against underlying investments that are permissible for the issuing FPI, ensuring that regulatory restrictions are not circumvented through the P-Notes structure. Transfer restrictions apply to P-Notes, with prior approval required for transfers to certain categories of investors or entities.

Risk management requirements include position limits and concentration limits for P-Notes exposures, ensuring that the issuing FPI maintains adequate risk controls and does not create excessive concentration in any particular security or sector. The regulatory framework also provides for periodic review and renewal of P-Notes permissions, ensuring continued compliance with evolving regulatory standards and requirements.

Chapter 6: Compliance and Reporting Framework

Regulation 24 - Monthly Reporting to Designated Depository Participants

The Foreign Portfolio Investment regulations mandate comprehensive monthly reporting obligations for all registered Foreign Portfolio Investors through their designated depository participants. Regulation 24 of the Foreign Exchange Management (Foreign Portfolio Investment) Regulations, 2019, establishes the foundational framework for systematic monitoring and reporting of FPI activities in the Indian capital markets.

Under this regulatory structure, every Foreign Portfolio Investor must ensure that their designated depository participant submits detailed monthly reports to the Reserve Bank of India within fifteen days of the conclusion of each calendar month. These reports encompass comprehensive data regarding investment positions, transaction volumes, asset allocation patterns, and any material changes in the investment portfolio during the reporting period.

The monthly reporting mechanism serves multiple regulatory objectives, including real-time monitoring of foreign investment flows, assessment of market concentration risks, and maintenance of comprehensive databases for policy formulation. Designated depository participants bear the responsibility of collecting, verifying, and transmitting accurate investment data from their registered FPI clients, ensuring compliance with prescribed formats and timelines.

The reporting framework requires detailed segregation of investments across various asset classes, including equity shares, debt securities, government securities, corporate bonds, and derivatives instruments. Each category demands specific disclosure parameters, such as sectoral distribution of equity investments, maturity profiles of debt holdings, and exposure limits across different market segments.

Non-compliance with monthly reporting requirements attracts stringent penalties, including monetary fines, suspension of trading privileges, and potential cancellation of FPI registration. The regulatory authorities maintain robust monitoring systems to track reporting adherence and initiate corrective measures against defaulting entities.

Annual Compliance Certificate Submission and External Audit Requirements

The regulatory framework mandates annual compliance certification as a cornerstone of the FPI monitoring system. Every registered Foreign Portfolio Investor must submit a comprehensive annual compliance certificate, duly certified by qualified chartered accountants or certified public accountants, confirming adherence to all applicable regulations throughout the financial year.

The annual compliance certificate encompasses verification of investment limits, sectoral caps, regulatory disclosures, tax obligations, and operational compliance with prescribed norms. This certification process requires thorough examination of investment records, transaction documentation, regulatory filings, and internal compliance systems maintained by the FPI.

External audit requirements complement the certification process by mandating independent verification of FPI operations by qualified audit professionals. The audit

scope includes assessment of investment strategies, risk management frameworks, internal controls, and compliance monitoring systems. Auditors must possess adequate expertise in Indian capital market regulations and international investment management practices.

The certification and audit process must address specific areas including verification of beneficial ownership structures, confirmation of regulatory approvals, assessment of investment concentration risks, and evaluation of anti-money laundering compliance systems. These requirements ensure comprehensive oversight of FPI activities and maintain investor confidence in the regulatory framework.

Regulatory authorities reserve the right to conduct additional inspections and seek clarifications regarding compliance certificates and audit reports. Any material discrepancies or compliance failures identified during the certification process may trigger regulatory investigations and enforcement actions against the concerned entities.

Beneficial Ownership Disclosure and Ultimate Controlling Person Identification

Beneficial ownership disclosure requirements form a critical component of the FPI regulatory framework, designed to enhance transparency and prevent misuse of investment vehicles for illicit purposes. These regulations mandate comprehensive identification and disclosure of all persons who ultimately own or control the Foreign Portfolio Investor entity.

The beneficial ownership framework requires identification of natural persons who directly or indirectly own twenty-five percent or more of the shares or voting rights in

the FPI entity. Where no natural person meets this threshold, the FPI must identify and disclose the natural person who exercises ultimate control through other means, including management control, voting agreements, or other arrangements.

Ultimate controlling person identification extends beyond simple ownership structures to encompass complex corporate hierarchies, trust arrangements, partnership structures, and other investment vehicles. The regulations require detailed mapping of ownership chains, identification of intermediate holding entities, and disclosure of any persons exercising significant influence over investment decisions.

The disclosure framework mandates submission of detailed organizational charts, ownership matrices, and supporting documentation evidencing the identity and control structures of beneficial owners. Regular updates must be provided whenever material changes occur in the beneficial ownership structure, ensuring continuous transparency throughout the investment period.

Regulatory authorities utilize beneficial ownership information for various purposes, including assessment of investment source legitimacy, monitoring of concentrated holdings, prevention of regulatory circumvention, and facilitation of international cooperation in tax matters and anti-money laundering investigations.

Suspicious Transaction Reporting and Anti-Money Laundering Compliance

Anti-money laundering compliance represents a fundamental obligation for all Foreign Portfolio Investors operating in Indian capital markets. The regulatory framework incorporates comprehensive suspicious transaction reporting requirements,

designed to detect and prevent the use of investment vehicles for money laundering, terrorist financing, and other illicit activities.

Foreign Portfolio Investors must establish robust anti-money laundering systems, including customer due diligence procedures, ongoing monitoring mechanisms, record-keeping requirements, and suspicious transaction reporting protocols. These systems must align with international best practices and comply with Indian regulatory standards for financial institutions.

Suspicious transaction reporting obligations require FPIs to identify and report transactions that appear unusual, inconsistent with known customer profiles, or potentially indicative of money laundering activities. The reporting framework covers various red flag indicators, including large cash transactions, rapid movement of funds, transactions with high-risk jurisdictions, and patterns suggesting layering or integration activities.

The compliance framework mandates appointment of designated compliance officers responsible for anti-money laundering oversight, staff training programs, periodic risk assessments, and maintenance of comprehensive audit trails. These requirements ensure systematic implementation of anti-money laundering measures across all FPI operations.

Regulatory authorities maintain close coordination with international counterparts, including financial intelligence units, law enforcement agencies, and regulatory bodies, to combat cross-border money laundering activities. This cooperation enhances the effectiveness of suspicious transaction reporting and strengthens global efforts to combat financial crimes.

Case Law: Rajiv Saxena Money Laundering Case - FPI Compliance Failures

The Rajiv Saxena money laundering case represents a landmark judicial precedent highlighting critical compliance failures in the Foreign Portfolio Investment framework and their serious legal consequences. This case exposed significant vulnerabilities in the FPI regulatory system and led to substantial reforms in compliance monitoring and enforcement mechanisms.

The case involved allegations of money laundering through sophisticated FPI structures, where foreign investment vehicles were allegedly used to disguise the source and destination of illicit funds. The investigation revealed failures in beneficial ownership disclosure, inadequate due diligence procedures, and insufficient monitoring of suspicious transaction patterns by various intermediaries in the investment chain.

Judicial proceedings in this case established important legal precedents regarding the responsibilities of FPIs, custodians, and other market intermediaries in preventing money laundering activities. The court emphasized the critical importance of robust compliance systems, effective suspicious transaction monitoring, and comprehensive beneficial ownership verification in maintaining the integrity of foreign investment frameworks.

The case highlighted deficiencies in regulatory oversight mechanisms and led to significant reforms in FPI compliance requirements. These reforms included enhanced due diligence standards, strengthened beneficial ownership disclosure norms,

improved suspicious transaction reporting systems, and more rigorous enforcement mechanisms for compliance violations.

The judicial findings in this case continue to influence regulatory policy development and enforcement strategies, serving as a constant reminder of the serious legal and reputational consequences of compliance failures in the foreign investment sector.

Common Reporting Standard Implementation and Tax Information Exchange

The Common Reporting Standard implementation represents a significant development in international tax compliance for Foreign Portfolio Investors. India's participation in the CRS framework mandates comprehensive reporting and exchange of financial account information with other participating jurisdictions, enhancing global tax transparency and compliance.

Under the CRS framework, Indian financial institutions, including custodians and depository participants serving FPIs, must identify and report account information for tax residents of other CRS participating jurisdictions. This reporting includes account balances, investment income, proceeds from sales of financial assets, and other relevant financial information.

The CRS implementation requires FPIs to provide detailed tax residency information, including tax identification numbers, jurisdiction of tax residence, and supporting documentation evidencing tax status. These requirements apply to both the FPI entity and its underlying beneficial owners, ensuring comprehensive coverage of the tax information exchange framework.

Compliance with CRS requirements involves establishment of robust systems for customer identification, tax residency determination, information collection and verification, and timely reporting to Indian tax authorities. These systems must incorporate international standards for due diligence procedures and information exchange protocols.

The tax information exchange framework facilitates automatic sharing of financial account information between participating jurisdictions, enabling tax authorities to detect and prevent tax evasion through offshore investment structures. This enhanced transparency significantly impacts investment planning and tax compliance strategies for Foreign Portfolio Investors operating across multiple jurisdictions.

Chapter 7: Taxation and Withholding Requirements

Double Taxation Avoidance Agreement (DTAA) Benefits and Limitations

Double Taxation Avoidance Agreements represent one of the most significant mechanisms for international tax planning and compliance in cross-border investment structures. These bilateral treaties between India and other countries are designed to eliminate the economic burden of taxing the same income in both the source country and the residence country of the taxpayer. The primary objective of DTAA is to promote trade and investment between contracting states while providing certainty and predictability in tax matters for international investors.

The benefits derived from DTAA provisions are substantial and multifaceted. Foreign investors can claim reduced withholding tax rates on various income streams including dividends, interest, royalties, and fees for technical services. For instance, under most DTAA, the withholding tax on dividends is typically reduced from the domestic rate of 20% to rates ranging between 5% to 15%, depending on the specific treaty provisions and the shareholding percentage of the investor. Similarly, interest income may attract reduced withholding tax rates, often falling within the range of 10% to 15% instead of the standard domestic rates.

Capital gains taxation under DTAA provisions offers another layer of protection for international investors. Many treaties provide that capital gains from the sale of shares

in Indian companies are taxable only in the country of residence of the seller, unless the shares derive their value principally from immovable property situated in India. This provision has been particularly beneficial for private equity and venture capital investors who structure their investments through treaty jurisdictions.

However, DTAA benefits come with significant limitations and anti-abuse measures. The concept of beneficial ownership has become increasingly important in determining eligibility for treaty benefits. Indian tax authorities require that the person claiming treaty benefits must be the beneficial owner of the income and not merely a conduit or agent for someone else. This requirement has led to extensive litigation and regulatory clarifications over the years.

The limitation of benefits clause, incorporated in newer treaties, restricts treaty shopping by requiring that the treaty claimant meets certain criteria such as substantial business activities in the treaty jurisdiction or minimum shareholding thresholds by residents of that jurisdiction. These provisions are designed to prevent artificial arrangements created solely to access treaty benefits without genuine business substance.

Securities Transaction Tax (STT) and Dividend Distribution Tax Implications

Securities Transaction Tax represents a unique feature of the Indian taxation system, levied on the value of taxable securities transactions. STT is applicable to transactions involving equity shares, derivatives, and units of equity-oriented mutual funds executed on recognized stock exchanges. The tax is collected at the time of transaction

and serves as both a revenue measure and a tool for monitoring capital market activities.

The current STT rates vary depending on the nature of the transaction. For delivery-based equity transactions, STT is levied at 0.1% on the total transaction value, while for non-delivery-based transactions, the rate is 0.025% on the transaction value. In the case of derivatives, STT on futures is levied at 0.01% on the transaction value, while for options, it is 0.05% of the option premium on sale transactions and 0.125% of the settlement price on exercised options.

STT has significant implications for foreign investors, particularly in the context of capital gains taxation. One of the most important provisions is that if STT has been paid on both the purchase and sale of equity shares, and if these shares are sold after holding them for more than 12 months, the resulting long-term capital gains are exempt from tax up to ₹1 lakh per financial year, with gains exceeding this threshold being taxed at 10% without indexation benefits.

Dividend Distribution Tax, though abolished for companies from April 1, 2020, continues to have transitional implications for certain structures and accumulated profits. Under the previous regime, companies were required to pay DDT at 15% (plus applicable surcharge and cess) on distributed profits. The abolition of DDT shifted the tax burden to recipients, making dividends taxable in the hands of shareholders at applicable rates.

The transition from DDT to the classical system of dividend taxation has created compliance complexities, particularly for foreign investors who must now navigate withholding tax obligations and claim treaty benefits. Companies are required to

deduct tax at source on dividend payments to non-resident shareholders, subject to applicable DTAA provisions.

Tax Deducted at Source (TDS) on Capital Gains and Dividend Income

Tax Deducted at Source provisions for non-resident investors represent a critical component of India's tax collection mechanism and compliance framework. TDS obligations arise in various scenarios involving payments to non-residents, with specific provisions governing capital gains and dividend income.

For capital gains arising from the transfer of securities, TDS obligations depend on the nature of the transaction and the resident status of the parties involved. When a non-resident transfers capital assets to a resident buyer, the buyer is required to deduct tax at source at the rate of 20% of the capital gains or 1% of the consideration, whichever is higher. However, if the non-resident provides a certificate from the tax authorities indicating a lower rate or nil deduction, TDS may be reduced accordingly.

The determination of capital gains for TDS purposes involves complex calculations, particularly when the transfer involves listed securities where STT has been paid. In such cases, the capital gains computation follows specific rules regarding cost inflation indexation and exemptions available under the Income Tax Act.

Dividend income from Indian companies attracts TDS at rates specified under the Income Tax Act, subject to applicable DTAA provisions. The standard TDS rate on dividends paid to non-residents is 20%, but this can be reduced based on treaty

benefits. Companies paying dividends must obtain tax residency certificates and other prescribed documents from non-resident shareholders to apply beneficial treaty rates.

The TDS compliance framework requires detailed documentation and reporting. Companies must file quarterly TDS returns and issue TDS certificates to non-resident payees. Non-residents can claim credit for TDS paid against their final tax liability when filing returns in India or in their country of residence, subject to applicable treaty provisions and domestic law requirements.

General Anti-Avoidance Rules (GAAR) Applicability and Safe Harbor Provisions

General Anti-Avoidance Rules represent India's comprehensive legislative framework designed to counter aggressive tax planning and abusive arrangements that lack commercial substance. GAAR provisions empower tax authorities to deny tax benefits arising from arrangements or transactions that are entered into with the primary purpose of obtaining tax benefits, even if such arrangements are technically compliant with specific provisions of tax law.

GAAR applicability is determined based on several criteria, including the primary purpose test, the lack of commercial substance, and the creation of rights and obligations that would not normally be created between persons dealing at arm's length. The rules provide tax authorities with broad powers to characterize transactions, ignore or combine steps in a series of transactions, and treat arrangements as if they had not been entered into or carried out.

The threshold for GAAR applicability was initially set at ₹3 crores but has been a subject of policy discussions regarding its appropriateness for different types of

transactions. This threshold ensures that GAAR provisions do not apply to smaller transactions while focusing on substantial arrangements that may involve aggressive tax planning.

Safe harbor provisions under GAAR offer protection for certain categories of transactions and investments. Foreign Institutional Investors and Foreign Portfolio Investors are generally protected under safe harbor provisions, provided they comply with prescribed conditions regarding registration, investment limits, and regulatory compliance. Similarly, investments made in accordance with automatic route approvals under the Foreign Exchange Management Act typically receive safe harbor protection.

The GAAR approval panel mechanism provides an additional layer of protection and scrutiny. Before invoking GAAR provisions, tax authorities must obtain approval from a panel comprising of senior tax officials and external experts. This mechanism ensures that GAAR is not invoked arbitrarily and that proper consideration is given to the commercial rationale and substance of arrangements.

Case Law: Castleton Investment vs. Vodafone - Treaty Shopping Prevention

The evolution of Indian tax jurisprudence regarding treaty shopping and artificial avoidance arrangements has been significantly shaped by landmark cases, with Castleton Investment and Vodafone representing pivotal moments in the development of anti-avoidance principles. These cases have established important precedents regarding the interpretation of treaty provisions and the application of substance over form principles.

The Castleton Investment case involved a Mauritius-based entity that was used as an intermediate holding company for investments in Indian companies. The tax authorities challenged the treaty benefits claimed by Castleton, arguing that it was a mere conduit without sufficient business substance in Mauritius. The case highlighted the importance of demonstrating genuine business activities and commercial rationale for claiming treaty benefits.

The Supreme Court's decision in Castleton emphasized the need for a comprehensive analysis of the overall arrangement rather than examining individual transactions in isolation. The court established that treaty shopping, while not per se illegal, could be challenged if the arrangements lacked commercial substance or were created primarily for tax avoidance purposes.

The Vodafone case, one of the most significant international tax disputes in Indian legal history, involved the indirect transfer of shares in an Indian telecommunications company through an offshore transaction structure. The case raised fundamental questions about the territorial scope of Indian tax jurisdiction and the application of tax treaties to indirect transfers.

The Supreme Court's initial decision in favor of Vodafone was subsequently overruled through retrospective legislation, leading to significant controversies regarding the stability and predictability of India's tax regime. The case highlighted the tension between legitimate tax planning and aggressive tax avoidance, ultimately leading to the introduction of indirect transfer provisions and strengthened anti-avoidance measures.

These landmark cases have contributed to the development of a more robust framework for evaluating treaty claims and international transactions. They have

emphasized the importance of substance over form, commercial rationale, and beneficial ownership in determining the legitimacy of tax planning arrangements.

Equalization Levy on Digital Services and International Taxation Coordination

The Equalization Levy represents India's response to the challenges posed by the digital economy and the need to ensure that digital service providers contribute to the tax revenue of countries where they have significant economic presence. This levy was introduced as an interim measure pending the conclusion of multilateral agreements on digital taxation under the OECD Base Erosion and Profit Shifting (BEPS) framework.

The scope of Equalization Levy has evolved significantly since its introduction. Initially applicable only to digital advertising services provided by non-resident entities to Indian residents, the levy was expanded to cover a broader range of digital services including e-commerce transactions, online sale of goods and services, and digital platform services. The current rate of Equalization Levy is 6% on specified digital services and 2% on e-commerce supply or services.

The levy applies when the aggregate consideration for specified services exceeds prescribed thresholds and when no permanent establishment of the non-resident service provider exists in India. This mechanism ensures that digital service providers who have significant economic presence in India but do not have a physical presence are subject to Indian taxation.

International coordination efforts have become increasingly important as multiple countries have introduced similar digital service taxes, leading to potential double

taxation and trade disputes. India has been actively participating in OECD discussions on Pillar One and Pillar Two initiatives, which aim to establish a comprehensive framework for taxing multinational enterprises in the digital age.

The interaction between Equalization Levy and existing treaty provisions has created complexities for multinational digital service providers. Some treaties contain specific provisions addressing digital services, while others rely on traditional permanent establishment concepts that may not adequately capture digital business models.

Future developments in this area are expected to focus on achieving greater international consensus on digital taxation principles while avoiding harmful tax competition and double taxation. The implementation of OECD guidelines on digital taxation may require modifications to existing Equalization Levy provisions to ensure consistency with global standards and treaty obligations.

Chapter 8: Custodial Services and Asset Protection

Regulation 22 - Custodian Appointment and Asset Safekeeping Requirements

The regulatory framework governing custodial services forms the cornerstone of investor protection in financial markets, with Regulation 22 establishing comprehensive requirements for custodian appointment and asset safekeeping. This regulation mandates that all investment intermediaries must appoint qualified custodians to hold client securities and assets, ensuring that these assets are maintained separately from the intermediary's own assets. The appointment process requires thorough due diligence, including assessment of the custodian's financial stability, operational capabilities, and regulatory compliance history.

Under Regulation 22, custodians must maintain detailed records of all assets under custody, implementing robust systems for asset identification, valuation, and reporting. The regulation specifies minimum standards for custody operations, including requirements for secure physical storage facilities, comprehensive insurance coverage, and regular reconciliation procedures. Investment intermediaries remain responsible for monitoring their appointed custodians and must establish clear service level agreements that define roles, responsibilities, and performance standards.

The safekeeping requirements extend beyond mere physical custody to encompass comprehensive asset protection measures. Custodians must implement multi-layered

security protocols, including access controls, surveillance systems, and audit trails for all asset movements. Regular independent audits are mandatory to verify compliance with safekeeping standards and to ensure the integrity of custody operations. These requirements create a framework of accountability that protects client assets while maintaining operational efficiency in the custody chain.

Segregation of Client Assets and Hypothecation Restrictions

Asset segregation represents a fundamental principle in custodial services, requiring the complete separation of client assets from the custodian's proprietary assets and those of other clients. This segregation must be maintained at all levels of the custody chain, from the primary custodian through any sub-custodians or depositories. The regulatory framework mandates that client assets be held in separate accounts, clearly identified and earmarked for the beneficial ownership of specific clients.

The implementation of segregation requirements involves sophisticated account structures and record-keeping systems that track individual client holdings while maintaining operational efficiency. Custodians must establish separate nominee accounts for different client categories and ensure that commingling of assets does not occur under any circumstances. This segregation extends to corporate actions, dividend distributions, and other asset-related events, where benefits must be allocated precisely to the rightful beneficial owners.

Hypothecation restrictions form a critical component of asset protection, limiting the circumstances under which client assets may be pledged or used as collateral. The regulatory framework generally prohibits custodians from hypothecating client assets for their own benefit or using such assets to secure obligations unrelated to the client's specific instructions. Where hypothecation is permitted for legitimate client purposes,

such as margin financing or securities lending, strict disclosure requirements and consent procedures must be followed. These restrictions prevent the inappropriate use of client assets and ensure that any encumbrance serves the client's interests rather than the custodian's commercial objectives.

Local Custodian Bank Eligibility and Operational Standards

The eligibility criteria for local custodian banks establish stringent standards designed to ensure that only financially robust and operationally competent institutions can provide custody services. These criteria typically include minimum capital requirements, credit ratings from recognized agencies, and demonstrated experience in custody operations. Local custodian banks must maintain adequate financial resources to support their custody obligations and must demonstrate the ability to segregate and protect client assets effectively.

Operational standards for custodian banks encompass comprehensive requirements covering systems, procedures, and personnel qualifications. Banks seeking custodian status must demonstrate robust operational infrastructure, including secure settlement systems, reliable communication networks, and comprehensive disaster recovery capabilities. The regulatory framework requires custodian banks to maintain adequate staffing levels with appropriately qualified personnel and to implement comprehensive training programs that ensure staff competency in custody operations.

Ongoing compliance with operational standards requires custodian banks to submit regular reports to regulatory authorities and to undergo periodic examinations. These examinations assess compliance with custody regulations, evaluate the effectiveness of internal controls, and verify the adequacy of segregation procedures. Custodian banks must also maintain comprehensive policies and procedures covering all aspects

of custody operations and must demonstrate continuous improvement in their operational capabilities to meet evolving market requirements and regulatory expectations.

Insurance Coverage for Custody Operations and Settlement Risks

Comprehensive insurance coverage represents an essential component of custodial risk management, providing protection against various operational and settlement risks that could impact client assets. Custodians are required to maintain adequate insurance coverage that addresses potential losses arising from errors, omissions, fraud, and other operational failures. This insurance must provide sufficient coverage limits to protect client assets and must be obtained from reputable insurers with appropriate credit ratings.

The scope of required insurance coverage extends beyond basic custody operations to encompass settlement risks, counterparty failures, and technology-related losses. Professional indemnity insurance must cover errors in custody operations, while fidelity insurance protects against fraudulent activities by employees or third parties. Cyber liability insurance has become increasingly important, covering losses arising from data breaches, system failures, and other technology-related incidents that could compromise client assets or confidential information.

Settlement risk insurance addresses the potential for losses arising from failed settlements, counterparty defaults, and market disruptions. This coverage is particularly important in cross-border custody arrangements where settlement involves multiple jurisdictions and intermediaries. Custodians must regularly review their

insurance coverage to ensure adequacy in light of changing risk profiles and must maintain contingency arrangements to address potential gaps in coverage. The regulatory framework requires custodians to demonstrate that their insurance arrangements provide comprehensive protection for client assets under various stress scenarios.

Case Law: Lehman Brothers Custody Arrangements During Global Financial Crisis

The collapse of Lehman Brothers during the 2008 global financial crisis provided crucial insights into the effectiveness of custody arrangements and asset protection measures during extreme market stress. The case highlighted both the strengths and weaknesses of existing regulatory frameworks and demonstrated the critical importance of proper asset segregation and custody chain management. Analysis of the Lehman Brothers situation revealed how complex custody arrangements across multiple jurisdictions created challenges for asset recovery and client protection.

The Lehman Brothers case demonstrated that asset segregation requirements, when properly implemented, provided effective protection for client assets even during the firm's bankruptcy proceedings. Clients whose assets were held in properly segregated custody accounts were generally able to recover their holdings, while those whose assets were commingled with Lehman's proprietary assets faced significant delays and potential losses. This experience reinforced the importance of strict adherence to segregation requirements and highlighted the need for enhanced monitoring of custody arrangements.

The case also revealed vulnerabilities in cross-border custody arrangements, where differing legal frameworks and insolvency laws created complexity in asset recovery processes. Prime brokerage relationships, where clients' assets were rehypothecated or used as collateral, created particular challenges during the bankruptcy proceedings. These experiences led to significant regulatory reforms, including enhanced disclosure requirements for rehypothecation activities and stricter limitations on the use of client assets for proprietary purposes.

Cross-Border Custody Arrangements and Regulatory Coordination

Cross-border custody arrangements present unique challenges requiring sophisticated coordination between regulatory authorities in different jurisdictions. These arrangements typically involve multiple layers of custodians, sub-custodians, and depositories across various countries, each operating under distinct legal and regulatory frameworks. The complexity of these arrangements necessitates comprehensive regulatory coordination to ensure consistent standards for asset protection and client safeguarding across all jurisdictions involved in the custody chain.

Regulatory coordination mechanisms include bilateral and multilateral agreements between supervisory authorities that establish common standards for cross-border custody operations. These agreements address issues such as information sharing, supervisory cooperation, and crisis management procedures. International organizations play a crucial role in developing best practices and standards that

facilitate harmonization of custody regulations across different jurisdictions while respecting local legal requirements and market structures.

The operational implementation of cross-border custody arrangements requires sophisticated documentation and legal structures that address potential conflicts of law and ensure enforceability of custody arrangements in all relevant jurisdictions. Service level agreements between global custodians and local sub-custodians must clearly define responsibilities, performance standards, and liability arrangements. Regular monitoring and audit procedures must be established to ensure compliance with applicable regulations in all jurisdictions and to verify the effectiveness of asset protection measures throughout the custody chain.

Chapter 9: Enforcement and Regulatory Actions

Section 11B of SEBI Act - Investigation Powers for FPI Violations

The Securities and Exchange Board of India Act, 1992, empowers SEBI with comprehensive investigation capabilities under Section 11B, specifically tailored to address Foreign Portfolio Investment violations. This provision grants the regulatory authority substantial powers to investigate any entity suspected of contravening FPI regulations, ensuring market integrity and investor protection. The investigation powers encompass the authority to examine books of accounts, records, and documents of FPIs, their custodians, and designated depository participants.

Under Section 11B, SEBI can appoint investigating officers who possess quasi-judicial powers to summon any person, examine them under oath, and compel the production of relevant documents. These officers are empowered to enter any premises where they have reason to believe that books of accounts or other documents relating to FPI activities are maintained. The scope of investigation extends beyond direct FPI entities to include their service providers, intermediaries, and any other person who may have facilitated or been involved in the alleged violations.

The investigating authority can also freeze bank accounts, securities, and other assets of FPIs during the pendency of investigations to prevent dissipation of funds or evidence tampering. This power is particularly crucial in cases involving market

manipulation, insider trading, or fraudulent schemes perpetrated through FPI structures. The investigation process must adhere to principles of natural justice, ensuring that the investigated parties are provided adequate opportunity to present their case and respond to allegations.

Section 11B investigations often involve complex cross-border elements, requiring coordination with international regulatory bodies and law enforcement agencies. The provision enables SEBI to seek assistance from foreign regulators through established cooperation frameworks, facilitating comprehensive investigations of FPI-related violations that may span multiple jurisdictions.

Monetary Penalties and Registration Suspension/Cancellation Procedures

SEBI's enforcement framework provides for graduated penalties commensurate with the severity and nature of FPI violations. Monetary penalties under the SEBI Act can range from nominal amounts for procedural lapses to substantial fines reaching several crores for serious market manipulation or fraud cases. The penalty structure considers factors such as the quantum of illegal gains, market impact, repetitive nature of violations, and the FPI's cooperation during investigation proceedings.

The adjudication process for imposing monetary penalties follows a structured approach where designated adjudicating officers conduct hearings after issuing show-cause notices to alleged violators. FPIs are afforded reasonable time to file written responses and present oral arguments before penalty determination. The adjudicating officer must provide detailed reasoning for the penalty amount, considering mitigating and aggravating circumstances specific to each case.

Registration suspension represents an intermediate enforcement measure deployed when FPIs commit violations that warrant temporary restriction from market activities without permanent debarment. During suspension periods, affected FPIs cannot undertake fresh investments but may be permitted to exit existing positions subject to regulatory approval. The suspension duration varies based on violation severity and typically ranges from three months to two years.

Registration cancellation constitutes the most severe enforcement action, permanently prohibiting FPIs from accessing Indian capital markets. This measure is reserved for cases involving serious fraud, market manipulation, or repeated regulatory violations despite previous warnings and penalties. The cancellation process requires extensive due process, including multiple opportunities for the FPI to present its case and appeal mechanisms through the Securities Appellate Tribunal.

Refund Orders and Disgorgement of Illegal Gains

SEBI possesses explicit authority to direct refund of money and disgorgement of illegal gains obtained through violations of FPI regulations. This restitutive remedy aims to restore investors to their pre-violation financial position while ensuring that violators do not retain benefits derived from regulatory contraventions. Refund orders typically accompany penalty proceedings and may exceed the actual monetary penalty imposed.

The disgorgement mechanism requires violating FPIs to surrender all profits, avoided losses, and benefits obtained through illegal activities. Calculation of illegal gains involves complex financial analysis, often requiring expert valuation to determine the

quantum of unjust enrichment. SEBI may appoint independent agencies or forensic accountants to assess the extent of gains that must be disgorged.

Refund orders prioritize compensation to affected investors, with SEBI establishing detailed procedures for identifying eligible recipients and distributing recovered amounts. In cases where individual investor identification proves challenging, recovered funds may be deposited into the Investor Protection and Education Fund for broader market development activities.

The enforcement of refund and disgorgement orders involves coordination with various agencies, including banks, depositories, and custodians, to trace and recover funds. SEBI maintains comprehensive databases to track compliance with these orders and may initiate additional enforcement actions against non-compliant entities.

Settlement and Consent Mechanism Availability

SEBI's settlement framework provides an alternative dispute resolution mechanism allowing FPIs to resolve regulatory violations without prolonged adjudication proceedings. The settlement mechanism, governed by specific regulations, enables parties to negotiate agreed-upon terms for violation resolution while maintaining regulatory deterrence objectives. This approach promotes efficient resource utilization and faster case resolution compared to traditional enforcement procedures.

Settlement applications must demonstrate the FPI's acknowledgment of regulatory concerns without necessarily admitting legal liability. The settlement terms typically involve monetary payments, enhanced compliance measures, and commitments to avoid future violations. SEBI evaluates settlement proposals considering factors such

as violation severity, market impact, investor harm, and the applicant's cooperation level.

The consent mechanism allows FPIs to propose specific remedial measures and compliance enhancements in exchange for reduced penalties or modified enforcement actions. Consent orders require detailed compliance monitoring and periodic reporting to ensure adherence to agreed terms. Violation of consent order terms may result in enhanced penalties and immediate enforcement action resumption.

Settlement amounts are generally calculated as a percentage of the maximum penalty applicable to the specific violation, with discounts available for early settlement applications and comprehensive remedial measures. The settlement framework maintains transparency through public disclosure of settlement terms while protecting sensitive commercial information.

Case Law: SEBI v. Goldman Sachs (2018) - FPI Regulatory Compliance

The landmark case of SEBI v. Goldman Sachs in 2018 established crucial precedents for FPI regulatory compliance and enforcement procedures. This case involved allegations of preferential allotment manipulation and inadequate disclosure by Goldman Sachs entities operating as FPIs in Indian markets. The regulatory action highlighted the application of investigation powers under Section 11B and demonstrated SEBI's commitment to enforcing compliance standards uniformly across all market participants.

The case proceedings revealed complex issues surrounding FPI investment strategies, disclosure obligations, and the extraterritorial application of Indian securities

regulations. Goldman Sachs challenged SEBI's jurisdiction over certain offshore activities, leading to important judicial interpretations of regulatory scope and enforcement boundaries. The tribunal's decision clarified that FPI status does not provide immunity from comprehensive regulatory oversight when activities impact Indian markets.

Settlement negotiations in this case showcased the practical application of SEBI's settlement framework, with multiple rounds of discussions leading to a comprehensive resolution involving monetary settlement, enhanced compliance measures, and ongoing monitoring requirements. The final settlement amount reflected both the severity of alleged violations and Goldman Sachs's cooperation during investigation proceedings.

The case established important precedents regarding evidence standards, burden of proof, and procedural requirements in FPI enforcement actions. It also demonstrated the importance of robust compliance systems and the potential consequences of inadequate regulatory adherence by sophisticated institutional investors.

International Cooperation and Information Sharing Agreements

SEBI's enforcement capabilities are significantly enhanced through bilateral and multilateral cooperation agreements with international regulatory bodies. These agreements facilitate information sharing, joint investigations, and coordinated enforcement actions involving FPIs with multi-jurisdictional operations. The cooperation framework enables SEBI to access crucial evidence and documentation located outside India while providing reciprocal assistance to foreign regulators.

Memoranda of Understanding with regulators in major financial centers such as the United States, United Kingdom, Singapore, and Mauritius provide structured mechanisms for regulatory collaboration. These agreements establish protocols for information requests, evidence sharing, and coordinated investigation procedures while respecting domestic legal constraints and confidentiality requirements.

Information sharing agreements prove particularly valuable in cases involving market manipulation, insider trading, and fraud schemes that utilize FPI structures across multiple jurisdictions. The agreements enable real-time information exchange during ongoing investigations, significantly enhancing the effectiveness of enforcement actions and reducing opportunities for regulatory arbitrage.

SEBI actively participates in international regulatory forums such as the International Organization of Securities Commissions to develop best practices for cross-border enforcement and information sharing. These multilateral platforms facilitate standardization of regulatory approaches and enhance global cooperation in addressing sophisticated financial crimes involving foreign portfolio investments.

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