

11<sup>th</sup> INTERNATIONAL  
CONVENTION 2020



# COMPLIANCE REVIEW REPORT 2020

TO ENABLE EASE OF DOING BUSINESS  
IN INDIAN CAPITAL MARKETS



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# Preface

ANMI organizes an International Convention every year on different topics. This year, 11th International Convention “Redefining Capital Markets - A Must for \$5 trillion Economy” is being organized in New Delhi with a theme and vision of our Hon’ble Prime Minister Shri Narendra Modi turning India into a \$ 5 Trillion Economy by 2025.

ANMI believes that a structured policy approach and continuous reforms in various sectors including Financial Sector Reforms can help us achieve the noble vision of our Hon’ble Prime Minister. The country has climbed to the 63rd rank among 190 countries in the World Bank's ease-of-doing-business ranking released in the month of October 2019. The leap of 14 places from 2018, puts India among the top 10 improvers in rank yet again, according to the agency's Ease of Doing Business 2020 report.

In this background, it is pertinent to mention that the vision of the Hon’ble Prime Minister to bring about greater ease of doing business is now being extended to the Capital Market. Taking the lead, the Ministry of Finance, vide its communication to SEBI advised to submit a Comprehensive Review of Compliance Requirements via National Exchanges and ANMI. Review of compliances will reduce the cumbersome paper work for retail investors, encourage broader participation and democratizing prosperity, make Indian markets attractive to global investors, and enable market intermediaries to focus on serving customers and growing their businesses and most importantly unlock the potential value for listed companies.

Securities Markets in India has developed leaps and bounds in last few decades and now commands global recognition. The participants in Indian securities markets inter-alia include:

- The Regulator – Securities and Exchange Board of India
- Investors – that invest their wherewithal in securities thus providing necessary capital to the corporate entities (Issuers).
- Issuers - that raise capital from the market.
- Stock Exchanges – that provide a platform for transacting and facilitating liquidity in securities.
- Intermediaries registered with SEBI that facilitate transactions in securities markets.

Due to rapid innovation and development there is a scope for review and reconsideration of several requirements that effectively do not add significant value to the markets or market participants. It is for this reason that we have categorized our recommendations in the following 4 categories:





## About ANMI



Association of National Exchanges Members of India (ANMI) is an association comprising around 900 Stock Brokers from across the country who are members of National Stock Exchange of India Limited, The Bombay Stock Exchange, Multi Commodity Exchange and other exchanges having national presence.

The basic objective of ANMI is to work for the growth of the capital markets thus contributing to the economic development of the country and the overall interest of investors and its members at large by becoming a medium between regulator, exchanges and participants. ANMI believes that efficient financial markets are the main attraction for development of trade, industry and infrastructure, generation of employment and increased revenue to the nation. There is no doubt that the capital market is the fulcrum of any monetary system, savings and capital formation is the key to growth which transforms and results in creating further wealth.

ANMI has been closely working over last several years with Asia Securities Forum and International Forum for Investor Education – which in turn is supported by IOSCO. ANMI was the chair of AFIE during 2012-13 and is spearheading the movement of Investor Education. ANMI is also a member of International Council of Securities Association (ICSA).



# Acknowledgements

## Policy makers & Regulators



MINISTRY OF  
FINANCE



भारतीय प्रतिभूति और विनिमय बोर्ड  
Securities and Exchange Board of India

## Exchanges



NSE

BSE  
EXPERIENCE THE NEW

XMSE  
METROPOLITAN STOCK EXCHANGE

## Contributing Memembrs of ANMI

Mrs. Deena Mehta - Asit C Mehta Investment Intermediaries Ltd.

Mr. Jay Bhavsar - KIFS Trade Capital Pvt. Ltd.

Mr. Kamlesh Shah - Total Securities Ltd.

Mr. Kamlesh Shroff - Omniscient Securities Pvt. Ltd.

Mr. Naresh Tejwani - SATCO Capital Markets Limited

Mr. Shrenik Shah and Mr. Shankar Vailya - Sharekhan Ltd.

Mr. Venu Madhav - Zerodha Broking Ltd.

Mr. Vijay Bhushan - Bharat Bhushan Equity Traders Ltd.

Mr. Vijay Singhania - VNS Finance & Capital Services Ltd.

Dr. Raghavendra Prasad - CEO, ANMI

## Report prepared by





# Terms of Reference & Approach

ANMI, vide its letter dated January 14, 2020 appointed SecMark Consultancy Pvt. Ltd. to draft a report on review of compliance requirements to enable ease of trading.

There are numerous circulars/ regulations/ bye laws/ rules governing trading on stock markets. New compliance requirements are framed while the old compliance requirements which are outdated or have been better substituted by the newer compliance requirements are not removed. This inhibits trading by existing investors as well as addition of fresh investors. Hence a comprehensive review of compliance requirements enabling ease of trading needs to be undertaken, which also warrants visiting and taking feedback from market participants.

ANMI taking the initiative forward has engaged a reputed and experienced compliance consulting Company viz. SecMark Consultancy Pvt. Ltd., Mumbai for examining and conducting a detailed study in this regard. SecMark is a consultant to leading financial market participants inter alia including six exchanges, six banks / bank subsidiaries, thirty plus wealth and portfolio managers, investment advisors and forty plus depository participants as well as NISM.







# Outdated Compliances

# 01

Chapter

- a. ***Non-applicability of FATCA to Brokers:*** In terms of 114F (5) of Income Tax (11th Amendment) Rules, 2015, FATCA is not applicable to Brokers and in cases where brokers have registered as a reporting entity, they be allowed to de-register themselves and not be subjected to the unwarranted process of filing returns.
- b. ***Reporting of Peak funding details to Exchanges:*** The requirement of uploading peak funding details to Exchanges could be done away with in light of SEBI circular on margin funding and CUSA (Client Unpaid Securities Account) as well as regular reporting under enhanced supervision requirements. Thus the aforesaid reporting is redundant.
- c. ***Reporting of Order Limits in Capital Market Segment:*** On account of the implementation of SEBI's directive by the Exchanges, the value of orders is automatically controlled at Exchange level and therefore the requirement of reporting order limits on a quarterly basis to the Exchanges, should be done away with.



# Duplicate Compliances

# 02

## Chapter

- a. **Duplication of Registration under KRA and CKYC:** CKYC and KRA should not be allowed to run simultaneously and one of them should be discontinued. Insisting old clients to comply with the new requirement should be removed as the same can be fulfilled by obtaining records from UCC data of the Exchanges.
- b. **Duplicity of data upload to multiple Exchanges:** Instead of uploading same data and filing same documents with multiple Exchanges, a common filing with the Clearing Corporation that clears the trades of brokers across multiple Exchanges, may be permitted. The same data/documents may then be accessed internally by various Exchanges amongst themselves.
- c. **Sharing of SMS and Email Logs:** Logs of SMS and Emails sent by the Exchanges to the clients should be made available to the brokers as these logs may also have evidentiary value in case of dispute.
- d. **Margin Reporting across Exchanges:** Extending the mechanism of interoperability to margin reporting, can result in reducing reporting at multiple levels and margin collection from clients can be evaluated at a central level.



# Conflicting Compliances

# 03

Chapter

- a. **Digital Payment facility versus requirement of client payment from mapped account:** Under notification 105/2019 of Income Tax Act, brokers are required to allow their clients to make digital payments. However, as per SEBI requirement, client payment should come from their mapped bank accounts only. Therefore brokers should be exempted under the said Income Tax notification.
- b. **Linking of Aadhar and Mobile Numbers of Individual Clients:** It is not mandatory for an investor to link his Aadhar with his mobile number. In such cases, the investor cannot avail e-KYC and it becomes necessary to do in-person verification. Therefore E-KYC facility needs to be provided in such cases as well.
- c. **'PAC' under SAST Regulation not considered as a group under margin reporting:** Persons Acting in Concert (PAC) is considered as one group under SAST. In margin reporting and enhanced supervision requirements PAC is not treated as a group. Therefore, PAC may be exempted from requirements of independent margin reporting and instead be considered as one entity.



# Bringing Rationale to Compliance

# 04

## Chapter

- a. **KYC of Joint Holders of Demat Accounts:** The KYC process for joint holders should be done away with and only the requirements similar to nomination should be retained as the process of obtaining beneficial interest in the investments of first holders is the same for nominees as well as joint holders.
- b. **KYC – Information flow between Regulators for effective compliance:** It is suggested that whenever any action is taken by ROC against a Company/its directors, the information should flow automatically to Stock Exchanges / Depository Participants or any such other Regulator. Further, the Regulators may deactivate such accounts from their side and inform the intermediaries accordingly.
- c. **NISM certification / CPE (Continuing Professional Education):** Derivatives and Currency Dealers are required to hold valid NISM certification through online test or attending CPE program. Only select category of persons are allowed to obtain certification through CPE. One such category is 'grandfather' category, wherein persons having more than 10 years' experience as on the year 2013 are permitted to hold valid certification based on CPE program and are exempted from taking online test. 'Grandfather' category should be assigned to persons based on number of years' experience as on date and should not be based on a static date of 2013.
- d. **Centralised Database of restricted entities:** It is proposed that SEBI may identify an agency that maintains a list of debarred entities as the list of debarred entities is compiled by integrating lists maintained by several regulators across the world.
- e. **Internal Audit Format and Sampling Criteria:** Exchanges have complete data based on which sampling is required to be carried out and also has far better wherewithal to arrive at samples immediately whereas, brokers have to spend several days and in spite of that the accuracy thereof cannot be assured. During the inspections, the Exchanges arrive at sample data based on their own parameters and it is at times observed that the sample of the brokers / his auditor was incorrect. The Exchanges can be called upon to identify the samples and provide the same to the brokers for carrying out Audits. The timeframe for Half Yearly Internal Audit Report (for broking operations) also should be increased to within 90 days of end of half year from the current 60 days of end of half year.

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