

BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
SECURITIES AND EXCHANGE BOARD OF INDIA

Appeal No. 6039 of 2024

	:	Appellant
Devendra Deep		
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 06, 2024 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated June 11, 2024 responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/24/00120) dated June 12, 2024. I have carefully considered the application, the response and the appeal and find that the matter can be decided based on the material available on record.
2. **Request in the application** - The appellant, vide his application dated June 06, 2024, sought the following information:

“This is regarding customer protection for US stock purchase from the Indian broker platform like INDMoney/ Similar platform. I request to resolve below queries:

Does SEBI authorises US stocks purchasing from India using Indian platforms like INDMoney?

What is the SEBI role in monitoring and regulating platforms like INDMoney/ Similar platform that facilitate the purchase of foreign stocks, and what kind of audits or inspections can be expected? if already audited? Please share in yes or no. if audited, Is it safe to invest?

If not audited do you have any plan for auditing the function of such firms who provide US stock purchase options?

How does the SEBI ensure that such platforms comply KYC regulations?

Are there any upcoming regulatory changes or updates that could impact the ability of Indian residents to purchase US stocks through platforms like INDMoney/ Similar platform?

Can you provide detailed guidelines on the regulatory framework that governs the purchase of US stocks by Indian residents through platforms like INDMoney/ Similar platform?

Are there specific SEBI circulars or notifications that INDMoney/ Similar platform should adhere to when facilitating the purchase of US stocks? If yes, Does SEBI audits the same in some interval. If no, Will SEBI generate circular to protect Indian residents INDMoney/ Similar platform customers?

Could you clarify the process for remitting funds from India to the US for the purpose of stock purchases, including any necessary documentation or approvals?

What is the procedure for repatriating funds back to India after selling US stocks, including any restrictions or tax implications?

What measures does the SEBI recommend to ensure that customers are protected from fraud or misrepresentation when investing in US stocks through Indian platforms?

Are there any specific disclosures or information that INDMoney/ Similar platform must provide to customers to ensure transparency and compliance?

How will the customers data and investment records be safeguarded and transferred to ensure there is no loss of data or money?

In the event that INDMoney/ Similar platform shuts down its business operations, what measures are in place to ensure that customers investments in US stocks are protected?

Similar to how CDSL keep records of Indian stock purchases, which US-based custodial or depository services are used by INDMoney/ Similar platform to keep records of customers US stock purchases? How can customers verify the existence and security of their US stock holdings independently of INDMoney/ Similar platform?

What processes are in place to ensure that customers can continue to access and manage their US stock investments if INDMoney/ Similar platform ceases operations? If not Will SEBI mandate that for customer protection? Will customers have direct access to their US brokerage accounts or will there be an intermediary firm that takes over the management of these accounts? Can SEBI mandate that?

3. **Reply of the Respondent** - The respondent, in response to the request, informed that the information sought is in the nature of seeking opinion/guidance/clarifications. Accordingly, the same cannot be construed as “information”, as defined u/s 2(f) of the RTI Act, 2005.

However, the respondent informed that for Indian securities market, the appellant may refer to SEBI (Stock Broker) Regulations, 1992 and SEBI Master Circular on Stock Brokers issued on May 22, 2024. The respondent provided the relevant links to access the same on SEBI website.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that he has been refused access to information requested.
5. I have perused the aforesaid requests and the response provided thereto. On consideration, I find that the request of the appellant is in the nature of seeking guidance/clarification/opinion from the respondent. I find that the said request cannot be construed as seeking ‘information’ as defined under section 2(f) of the RTI Act. Consequently, the respondent did not have an obligation to provide such clarification or guidance under the RTI Act. In this context, reliance is placed on the matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021), wherein, Hon’ble Central Information Commission observed that “7. The Commission, after hearing the submissions of both the parties and after perusal of records, observed that some queries of the appellant are in the nature of seeking explanation/ opinion/ advice/ confirmation/ clarification from the CPIO and he has expected that the CPIO firstly should analyze the documents and then provide information to the appellant. But the CPIO is not supposed to create information; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/ opinions/ advices can only be provided to the applicants if it is available on

record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him” Accordingly, I do not find any deficiency in the response.

6. In view of the above observations, I find that there is no need to interfere with the decision of the respondent. The Appeal is accordingly dismissed.

Place: Mumbai

Date: June 24, 2024

B RAJENDRAN

**APPELLATE AUTHORITY UNDER THE RTI ACT
SECURITIES AND EXCHANGE BOARD OF INDIA**