

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

Appeal No. 5733 of 2023

Gagan Gupta	:	Appellant
	Vs	
CPIO, SEBI, Mumbai	:	Respondent

ORDER

1. The appellant had filed an application dated June 12, 2023 (received by the respondent through RTI MIS Portal) under the Right to Information Act, 2005 (“**RTI Act**”). The respondent, by a letter dated July 05, 2023, responded to the application filed by the appellant. The appellant filed an appeal (Reg. No. SEBIH/A/E/23/00145) dated July 10, 2023. 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. **Requests made in the application** –The appellant, vide his application dated June 12, 2023, made the following requests for obtaining information:
 1. *Can CAMS / Kfintech / mutual funds update data in KRA-KYC with data they can fetch from CKYC?*
 2. *Whereas address details are most recently updated in CKYC, in what all ways CAMS / Kfintech / mutual funds may take request to update CKYC data into KRA-KYC?*
 3. *Are CAMS / Kfintech / mutual funds empowered to fetch CKYC data based on the KIN provided by investor and update this into KRA-KYC?*
 4. *Can CAMS / Kfintech / mutual funds may take request on their email ids to fetch CKYC data based on the KIN provided by investor and update this into KRA-KYC?*
 5. *If CAMS / Kfintech / mutual funds cannot update CKYC data based on the KIN provided by investor and update this into KRA-KYC, why do they even save KIN number on folio details?*
 6. *Whereas address details are most recently updated in CKYC, do CAMS/ Kfintech/ mutual funds still require KYC Form, in paper along with photocopies evidence to be given for the address update in KRA-KYC?*

7. *Whereas this document publishes automated process for uploading the customer's CKYC data and document images using API, please supply information if this is relevant to CAMS and Kfintech who are RTAs for almost all running mutual funds in India.*
 8. *Does CAMS have any knowledge of this process and/ or empowered with access to infrastructure mentioned in this document, and update current (foreign)address from CKYC into KRA-KYC?*
 9. *Does Kfintech have any knowledge of this process and/ or empowered with access to infrastructure mentioned in this document, and update current (foreign)address from CKYC into KRA-KYC?*
 10. *Does any mutual fund have knowledge of this process and/ or empowered with access to infrastructure mentioned in this document, and update current (foreign)address from CKYC into KRA-KYC? If yes, please supply names of such mutual funds which can take a request for updating update current (foreign)address from CKYC into KRA-KYC.*
 11. *If the process is not relevant for CAMS / Kfintech / mutual funds, then who it is for?*
 12. *In cases where KRA-KYC of the investor is registered with KARVY-KRA or CAMS-KRA, but not CVLKRA, is there a similar process for CAMS/Kfintech/ mutual funds to update CKYC data into KRA-KYC?*
 13. *If CAMS/Kfintech/ mutual funds are empowered to update KRA-KYC from the CKYC data (KIN), and they are not doing, can SEBI take complaints against them?*
 14. *By making 'KYC' a one-time process, how do authorities meet the requirement of keeping themselves updated with minor changes like change in communication address on a real time basis?*
 15. *Aligning to the term 'KYC – KNOW YOUR CUSTOMER', whose burden is it to keep updated with customer details?*
3. The respondent, in response to the aforesaid requests, informed that the requests are in the nature of seeking clarification/opinion and accordingly, the same cannot be construed as seeking "information" as defined under section 2(f) of the RTI Act. Additionally, with respect to request number 14, the respondent informed that the intermediary is responsible for uploading the updated information on the system of KRA whenever the intermediary is in receipt of information on change in KYC details. With respect to request number 15, the respondent informed that the process of KYC is governed by provisions of Prevention of Money Laundering Act (PMLA), 2002 and the accompanying Rules as amended from time to time and notified by Government of India. The respondent also informed that in terms of the relevant Rules, a client is required to submit his KYC Information or any other additional details when (i) There is change in the information; (ii) The current address is to be verified or (iii) The

reporting entity considers it necessary to verify the client's identity or address. Further, every reporting entity is ultimately responsible for client due diligence as prescribed by PMLA and the relevant Rules.

4. **Ground of appeal-** The appellant has filed the appeal on the ground that the information provided was incomplete, misleading or false. The appellant, in his appeal, *inter alia*, reiterated some of the requests made in his application. The appellant also requested to instruct the CPIO to provide the information/ clarification.

5. I have perused the aforementioned requests and the response provided thereto. On consideration, I find that the requests are in the nature of seeking clarification/guidance/opinion from the respondent regarding updation of KYC data by Mutual Funds/ CAMS/ Kfintech. In my opinion, the CPIO is not supposed to provide clarification/guidance; or to interpret information; or to compile information as per the desire of the appellant under the ambit of the RTI Act. In this context, reliance is placed on matter of *Azad Singh vs. CPIO, Oriental Insurance Company Limited* (order dated March 23, 2021) wherein the Hon'ble CIC 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.” In view of these observations, I find that the said requests cannot be construed as seeking ‘information’ as defined under section 2 (f) of the RTI Act.

6. Notwithstanding the above, I note that the respondent has categorically informed that the process of KYC is governed by the provisions of PMLA and the accompanying Rules. Further, the respondent informed regarding responsibility of the intermediary to upload the updated information on the system of KRA. The respondent has also informed regarding the responsibility of the reporting entity for client due diligence. In my view, the requests raised in the application have been adequately addressed and I do not find any deficiency in the response.

7. 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: August 08, 2023

B RAJENDRAN

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