
[2025] 177 taxmann.com 65 (Article)

[2025] 177 taxmann.com 65 (Article)[©]

Date of Publishing: August 2, 2025

Navigating India's Regulatory Crossroads: SEBI's Transparency Drive and MCA's Ease of Business for FPIs in 2025.



CS RAHUL SAHASRABUDDHE

Designated Partner, SPRS & Co. LLP, Company Secretaries

Introduction: India's High-Stakes Regulatory Tightrope

India's ambition to become a \$10 trillion economy hinges on attracting foreign capital while ensuring market integrity—a balancing act epitomized by the ongoing tension between two powerful regulators. The Securities and Exchange Board of India (SEBI) continues tightening Foreign Portfolio Investor (FPI) disclosure norms to combat opacity, while the Ministry of Corporate Affairs (MCA) streamlines Companies Act compliance to reduce bureaucratic burdens. This regulatory clash, particularly regarding ultimate beneficial ownership (UBO) reporting, has created significant operational headaches for FPIs, risking capital flight and demanding urgent harmonization. As India celebrates crossing \$1 trillion in cumulative foreign direct investment (FDI) since 2000, these conflicting approaches threaten to undermine the very growth they seek to foster.

Part I: The 2025 Regulatory Landscape – Key Developments Reshaping FPI Compliance

1. SEBI's Evolving Transparency Framework ¹

- **Threshold Relaxation for Large FPIs:** In April 2025, SEBI amended its August 2023 disclosure circular, increasing the assets-under-management (AUM) threshold triggering granular UBO disclosures from **Rs. 25,000 crore (~\$3 billion)** to **Rs. 50,000 crore (~\$5.88 billion)**. This recalibration—prompted by a 122% surge in NSE's average daily turnover since 2023—exempts mid-sized FPIs from onerous "full look-through" requirements unless they hold >50% of equity AUM in a single corporate group.²
- **ODI Disclosure Deadline Extended:** Responding to operational challenges, SEBI pushed the deadline for Offshore Derivative Instrument (ODI) subscribers to disclose granular ownership details from May 17 to **November 17, 2025**³. This provides breathing room for complex fund structures to reconfigure compliance systems.
- **Sovereign Debt-Focused FPIs:** June 2025 saw SEBI create a new **IGB-FPI (Indian Government Bond-Foreign Portfolio Investors)** category for investors exclusively in Indian Government Bonds. Benefits include relaxed KYC timelines (aligned with RBI standards), exemption from investor group disclosures, and no restrictions on NRI/OCI control.

2. MCA's Threshold-Based Approach Under Companies Act

The MCA maintains its focus on *significant* influence over Indian companies via:

- **10% Beneficial Ownership Threshold:** Under Section 90, Indian companies must report individuals holding not less than 10% shares/voting rights or exercising "significant influence"—a materiality filter contrasting with SEBI's zero-threshold UBO mandate.
- **FPI Exemption Shield:** Crucially, SEBI-registered FPIs are exempt from being declared as Significant Beneficial Owners (SBOs) themselves, preventing duplicative reporting. This "entity-level carve-out" remains contentious as SEBI pushes for fund-structure transparency.

3. RBI's Market-Stimulating Reforms

- **Corporate Debt Liberalization:** In May 2025, the RBI eliminated two critical restrictions: (1) the 30% cap on FPI holdings of short-term corporate debt (residual maturity ≤ 1 year), and (2) the 10-15% concentration limits per issuer. With only 14.3% of corporate debt limits utilized in early 2025, this aims to attract sovereign wealth funds and pension funds deterred by forced portfolio rebalancing⁴.

Key 2025 Regulatory Changes Impacting FPIs

Regulator	Reform	Impact
SEBI	AUM threshold raised to Rs.50K cr	Reduces compliance for mid-sized FPIs
SEBI	IGB-FPI category creation	Simplifies sovereign debt investment
RBI	Corporate debt limits removed	Boosts liquidity in bond markets
MCA	Maintained 10% SBO threshold	Prevents duplicate entity-level reporting

Part II: The Core Conflict – Granularity vs. Materiality

1. Divergent Philosophies in Action

Consider an individual "X" owning more than 50% of FPI "Tiger," which holds 2% stakes across 20 Indian companies:

- *SEBI Compliance:* Tiger must disclose X as UBO due to the 40% fund-level stake (zero threshold).
- *MCA Compliance:* No SBO declaration occurs since X's indirect stake per company is 0.8% ($< 10\%$ threshold). This creates perverse outcomes: An FPI compliant with MCA rules may violate SEBI norms if its ownership structure is concentrated but widely distributed.

2. Operational Nightmares for FPIs

Funds-of-funds face exponential complexity:

- **SEBI Mandate:** Continuous "full chain" UBO mapping for all entities, regardless of investment size.
- **MCA Mandate:** Company-by-company analysis to identify individuals breaching 10% thresholds per holding.

3. Transparency Blind Spots

The gap enables "sliced concentration": An investor could hold 30% of an FPI, which spreads investments thinly across group companies (e.g., 5% per firm). This avoids MCA's SBO trigger (1.5% indirect stake $< 10\%$) while allowing coordinated influence—undermining SEBI's anti-opacity goals.

Part III: The Harmonization Imperative – Pathways to Resolution

1. Unified Digital Reporting Portal

SEBI's 2024–25 circulars reference plans for a **centralized UBO database** where FPIs file once, with data shared securely with SEBI (for surveillance) and MCA/RoC (for SBO checks). This would eliminate duplicative filings and align with the MCA for company disclosures.

2. Risk-Based Tiered Disclosure Framework

SEBI's March 2025 speech at the CII Summit outlined a graduated system:

- **High-Risk FPIs:** Granular disclosures for funds with >50% AUM in one group, high leverage, or domiciled in jurisdictions like Cayman Islands (which hosted 51% of US-exclusive FPIs in 2023).
- **Low-Risk FPIs:** Simplified norms for diversified, exchange-traded funds (ETFs) or government bond specialists.

3. Clarifying "Control" vs. "Ownership"

Regulators must disentangle:

- **SEBI's Focus:** "Control of the FPI vehicle" (e.g., power to appoint directors or influence investments).
- **MCA's Focus:** "Significant ownership/control *in* an Indian company." Joint guidance could mirror the UK's "Persons with Significant Control" registry, combining both concepts under one threshold.

Comparing Regulatory Approaches to FPI Disclosure

Aspect	SEBI's Position	MCA's Position
Primary Goal	Prevent promoter masking, Min. Public shareholding violations	Reduce compliance burdens
Disclosure Trigger	Any ownership/control in FPI (0% threshold)	>10% stake/voting rights in Indian company
Risk Focus	Market integrity, anti-money laundering	Corporate governance, ease of doing business
2025 Reforms	Higher AUM thresholds, IGB-FPI category	Maintained FPI entity-level exemption

Part IV: Global Context and Economic Implications

1. India in the Global FDI Race

As the US tightens scrutiny on Cayman Islands-domiciled FPIs (55% of which trade exclusively in US markets)⁵, India faces both opportunity and pressure:

- **Competitive Advantage:** RBI's removal of corporate debt limits aligns with EU/UK norms, potentially accelerating India's inclusion in global bond indices⁶.
- **Persistent Challenges:** Press Note 3 (2020)⁷ still mandates government approval for investments from China, Pakistan, and other border-sharing nations—a hurdle absent in other investment destinations.

2. Systemic Risks and Safeguards

Deregulation carries volatility risks:

RBI's Safety Net: Retained macro-prudential tools (e.g., sectoral caps, sudden outflow taxes) and coordination with SEBI's **FPI Outreach Cell**⁸ (established September 2024) for real-time monitoring. Removing issuer limits heightens exposure to defaults—mitigated by SEBI's proposed Legal Entity Identifier-PAN linkage for tracing end-beneficiaries.

Concentration Dangers: Removing issuer limits heightens exposure to defaults—mitigated by SEBI's proposed LEI-PAN linkage for tracing end-beneficiaries.

Conclusion: Convergence as a National Economic Priority

India's SEBI-MCA regulatory misalignment is more than a bureaucratic tussle—it is a critical stress test for India's ambition to become a mature financial market. The 2025 reforms (threshold adjustments, IGB-FPI carveouts, and ODI

extensions) reveal SEBI's nuanced shift toward proportionality, while MCA holds firm on entity-level exemptions. Yet fragmented compliance still burdens FPIs, with redundant filings costing the industry crores of rupees annually.

The solution lies in institutionalized coordination: A permanent FSDC⁹ (Financial Stability and Development Council) committee could harmonize UBO definitions, thresholds, and reporting protocols. Simultaneously, the proposed unified digital portal must accelerate to avoid liquidity fragmentation. As global capital navigates geopolitical uncertainty, India's ability to fuse SEBI's transparency with MCA's efficiency will determine whether it becomes a \$10 trillion economy by 2035—or remains a market where regulatory dissonance outweighs demographic promise.

The time for regulatory coexistence has passed; the era of integration must begin

■ ■

© Copyright Taxmann. No part can be copied or circulated without the permission of Taxmann.

1. https://www.sebi.gov.in/legal/circulars/apr-2025/amendment-to-circular-for-mandating-additional-disclosures-by-fpis-that-fulfil-certain-objective-criteria_93399.html
2. <https://www.nishithdesai.com/NewsDetails/15379>
3. https://www.sebi.gov.in/legal/circulars/may-2025/extension-of-timeline-for-implementation-of-provisions-of-sebi-circular-dated-december-17-2024-on-measures-to-address-regulatory-arbitrage-with-respect-to-offshore-derivative-instruments-odis-and-f-_93980.html
4. https://rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=12765
5. <https://marketedge.dlapiper.com/2025/06/the-commissions-analysis-of-recent-developments-in-the-fpi-population/>
6. <https://www.legal500.com/developments/thought-leadership/recalibrating-indias-corporate-debt-market-analyzing-rbis-2025-relaxations-for-foreign-portfolio-investors/>
7. https://dpiit.gov.in/sites/default/files/pn3_2020.pdf
8. https://www.sebi.gov.in/media-and-notifications/press-releases/sep-2024/sebi-establishes-foreign-portfolio-investor-fpi-outreach-cell_86996.html
9. <https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=95543>