

# Applicability of PIT Regulations on investment vehicles

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# Outline of the presentation

- **Understanding PIT Regulations**
  - Important definitions
  - Scope of PIT Regulations
  - Schedule B vs. Schedule C
- **Pooled investment vehicle**
  - How they function
- **Applicability of PIT Regulations on investment vehicles**
  - **Investment by DP of listed company**
    - In securities of listed company
    - In units of PIV
    - Through discretionary PMS
  - **Investment by DP of mutual fund**
    - In securities of listed company
    - In units of own mutual fund
  - **Investment by DP of other investment vehicles**
    - In securities of listed company
    - In units of own PIV

# Understanding PIT Regulations

# What is insider trading?

Insider Trading means **trading** in the **securities** with the advantage of **unpublished price sensitive information (UPSI)**.

## Trading

- means and includes subscribing, buying, selling, dealing, or
- agreeing to subscribe, buy, sell, deal in any securities.

## Securities

- As defined under SCRA, 1956 *except units of mutual fund*
  - shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or a pooled investment vehicle or other body corporate;
  - xxx
  - units or any other such instrument issued to the investors under any mutual fund scheme;
  - units or any other instrument issued by any pooled investment vehicle;

## UPSI

- any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities.

# Scope of PIT Regulations

- **Restrictions on communication or trading by insiders**

- **No communication** - No person can share or procure UPSI relating to the company or its securities except for legitimate purpose
- **No trading** - No insider can trade while having access to UPSI
- Exonerating circumstances where insider can prove his innocence.
- Such restrictions are applicable to all insiders

- **Other requirements**

- **Framing of Code of conduct** by listed company under Schedule B and intermediaries, fiduciaries under Schedule C
- **Framing of Code of fair disclosure** by listed company under Schedule A
- **Disclosure requirements** – by following persons for their trades including trades by immediate relatives, and persons for whom they take trading decisions
  - Initial disclosure – to be given by directors, KMPs, promoter/ promoter group
  - Continual disclosure – DP, promoter/ promoter group
- **Trading plan** – for all insiders
- **Internal control mechanism**

# Code of conduct

Code of conduct under Schedule B	Code of conduct under Schedule C
Formulated by listed company	Formulated by intermediaries and fiduciaries
Applicable to DPs of listed company and their immediate relatives	Applicable to DPs of intermediary/ fiduciary and their immediate relatives
Restriction on trading in the securities of listed company	Restriction on trading in client securities
Trading window closure	Restricted list – list of client securities maintained by compliance officer
Pre-clearance requirements before trading when trading window is open	Pre-clearance requirements before trading in client securities
Contra-trade restrictions – no opposite trade for 6 months	Contra-trade restrictions – no opposite trade for 6 months
Disclosure requirements	Disclosure requirements

Intermediary – SEBI registered intermediaries such as stock brokers, CRAs, research analysts, etc.

Fiduciary – Professional firms such as auditors, consultants, lawyers which assist/ advise listed company



Advisory services



Listed company

Fiduciary

DP of Listed company



Securities of listed company

invest

DP of Fiduciary

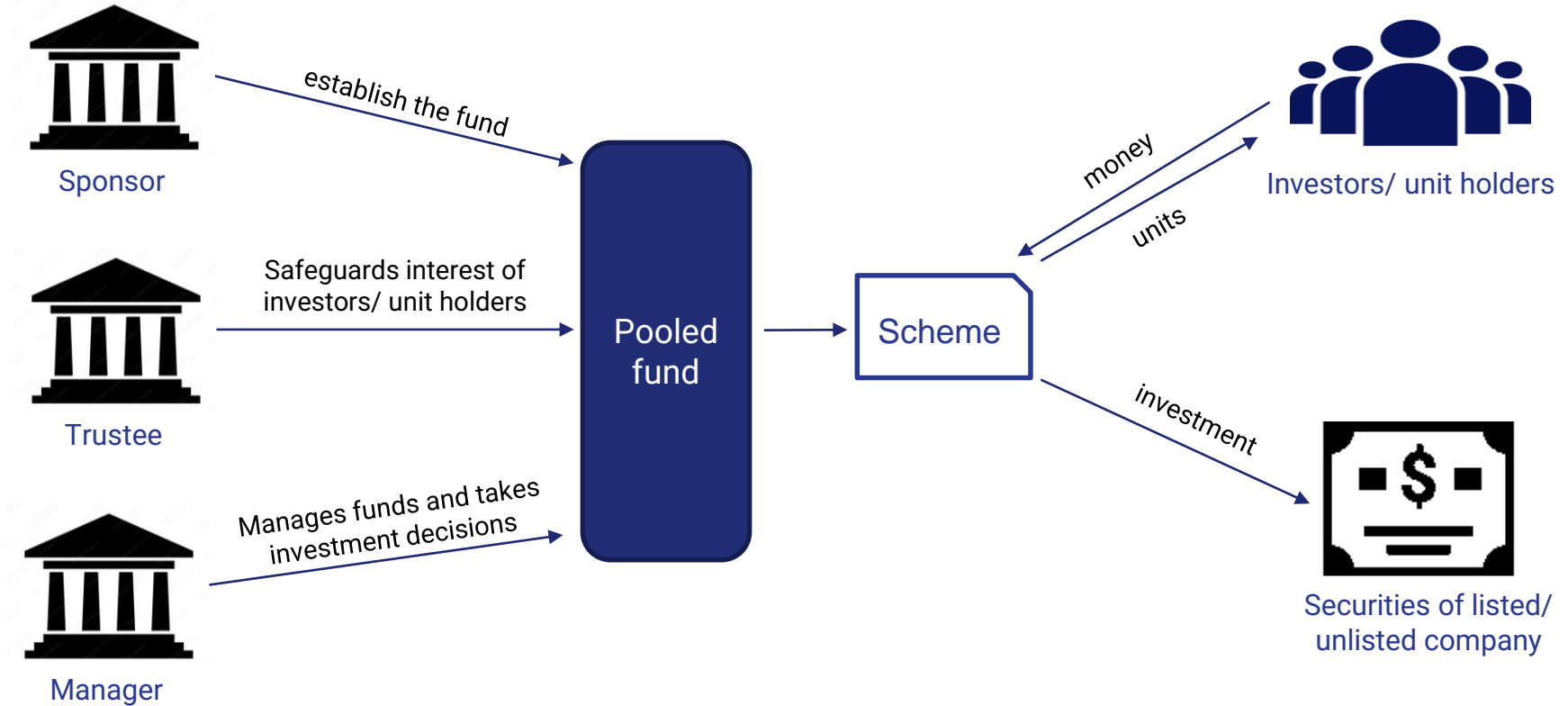
Comply with Schedule B  
framed by listed company

Comply with Schedule C  
framed by fiduciary

# Pooled investment vehicles



# How pooled investment vehicle (PIV) function?



# Types of investment vehicles

Mutual Funds

Alternative  
Investment  
Funds

Collective  
Investment  
Schemes

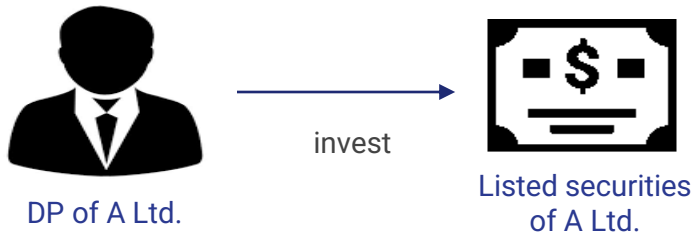
Real Estate  
Investment  
Trusts

Infrastructure  
Investment  
Trusts

# PIT Regulations vis-à-vis investment in PIV

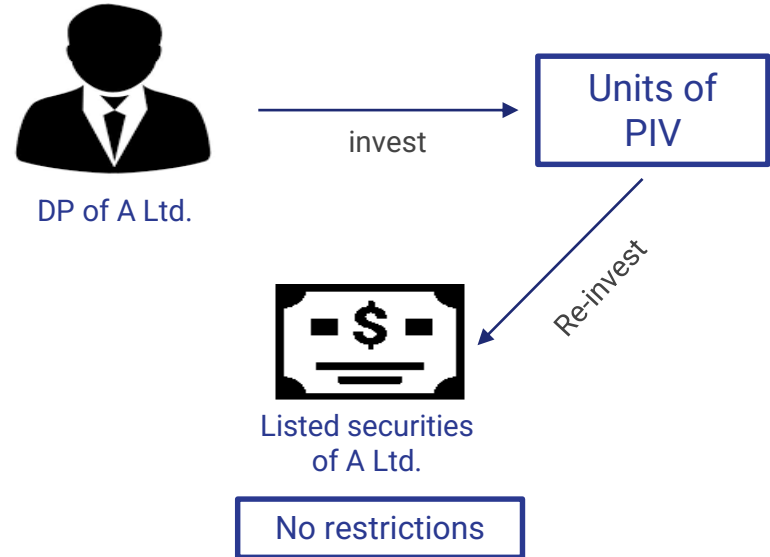
# Investment by DP of listed company

- Investment in securities of listed company



DP will have to comply with Schedule B

- Investment in units of PIV



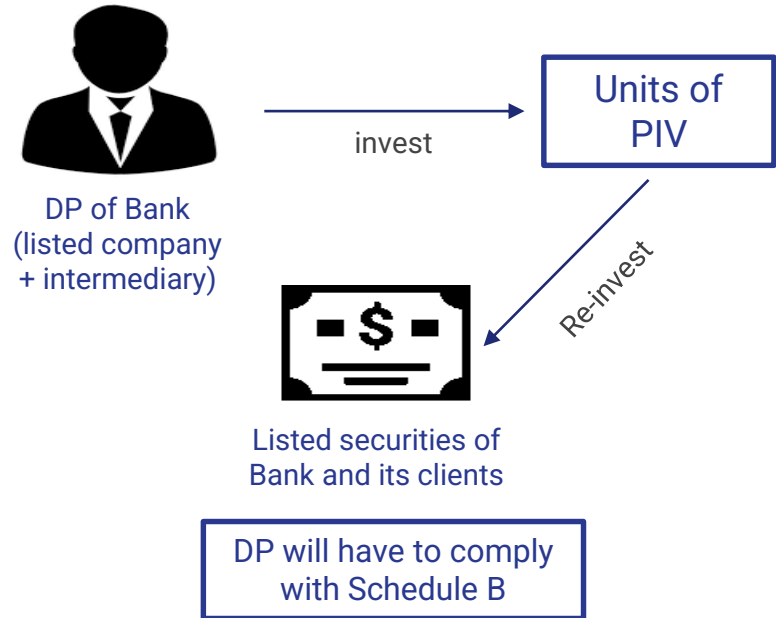
*What if DP has a connection with the fund manager of PIV?*

# Investment by DP of company which is listed company and intermediary (e.g. Bank)

## SEBI informal guidance<sup>1</sup>

- Applicant is a listed company + intermediary
- Adopted a referral model, where Applicant's customers are referred to the AMCs of AIFs
- Investment by fund manager of AIF may include investment in Applicant's securities or client securities whose UPSI is with the Applicant or its DPs.
- **SEBI's view:** DPs investing in AIF schemes may have access to UPSI in relation to securities where AIF has invested. DP would be considered as insider and Reg. 3, 4, 9(1) read with Schedule B may get attracted *based on the facts and circumstances of a specific case*.

- Investment in units of PIV



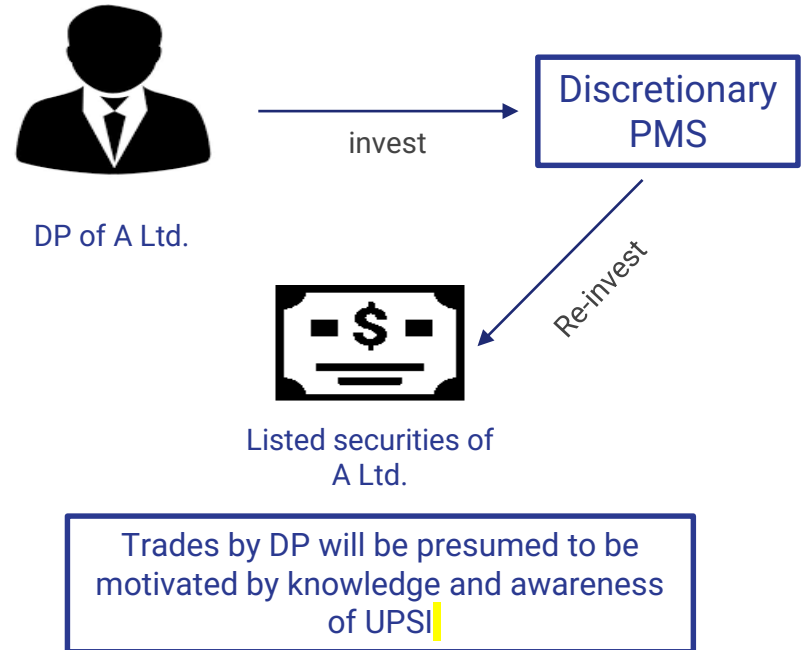
<sup>1</sup> [https://www.sebi.gov.in/sebi\\_data/commondocs/mar-2022/Yes%20Bank\\_AL\\_p.pdf](https://www.sebi.gov.in/sebi_data/commondocs/mar-2022/Yes%20Bank_AL_p.pdf)

# Investment by DP of listed company in Portfolio Management Schemes (PMS)

## SEBI informal guidance<sup>1</sup>

- Applicant is a listed company + intermediary
- Employees may choose to invest in securities market through discretionary PMS.
- Portfolio managers under discretionary PMS deal with their own discretion and investor has no direct/ indirect control/ influence over investment decision of portfolio manager.
- **SEBI's view:** Dealing in securities, whether direct or indirect, is not relevant, but that any insider in possession of UPSI should not deal in securities of the company to which UPSI pertains. While dealing through discretionary PMS, the trades of insider will be assumed to be motivated by knowledge and awareness of UPSI.

- Investment in PMS



<sup>1</sup> [https://www.sebi.gov.in/sebi\\_data/commndocs/HDFC-InfomralGuidanceletterbySEBI\\_p.pdf](https://www.sebi.gov.in/sebi_data/commndocs/HDFC-InfomralGuidanceletterbySEBI_p.pdf)

# Investment by DP of mutual fund

- Definition of securities under SCRA includes mutual fund units
- **N. K. Sodhi Committee Report<sup>1</sup>** - PIT Regulations should apply to listed units of investment vehicle as they are amenable to price discovery on a market platform and therefore, would be amenable to insider trading.
- **Public comments<sup>2</sup> were against it**
  - It would be difficult for insiders of listed company to determine or control whether such MFs trade in securities of the company of which he is an insider.
  - Close ended schemes are listed to provide liquidity, not for price discovery.
  - Open-ended schemes that are not listed on stock exchange should also be covered.
- **Final proposal<sup>3</sup> of SEBI excluded mutual fund units** - knowledge about the contents of a fund's portfolio may reveal nothing about what the NAV will be in the future.
- Present definition of securities under PIT Regs. excludes mutual fund units
- Schedule C is applicable to mutual funds as they are covered as connected person/ fiduciary.
- **SEBI consultation paper<sup>4</sup>** – proposal to apply PIT Regulations to units of mutual fund
  - Separate definition of DP, CP, UPSI
  - Separate chapter of prohibitions/ restrictions, disclosures.
  - Schedule B1 – similar to present Schedule B

<sup>1</sup> [https://www.sebi.gov.in/sebi\\_data/attachdocs/1386758945803.pdf](https://www.sebi.gov.in/sebi_data/attachdocs/1386758945803.pdf)

<sup>2</sup> [https://www.sebi.gov.in/sebi\\_data/commondocs/insideranniii\\_p.pdf](https://www.sebi.gov.in/sebi_data/commondocs/insideranniii_p.pdf)

<sup>3</sup> [https://www.sebi.gov.in/sebi\\_data/meetingfiles/1417514515705-a.pdf](https://www.sebi.gov.in/sebi_data/meetingfiles/1417514515705-a.pdf)

<sup>4</sup> [https://www.sebi.gov.in/reports-and-statistics/reports/jul-2022/consultation-paper-on-applicability-of-sebi-pit-regulations-to-mf-units\\_60689.html](https://www.sebi.gov.in/reports-and-statistics/reports/jul-2022/consultation-paper-on-applicability-of-sebi-pit-regulations-to-mf-units_60689.html)

# SEBI circular<sup>1</sup> on trading in securities by MF employees

- **Investment included** - shares, debentures, bonds, warrants, derivatives, units of own MF
- **Investment included** - FD, LIC policies, PF, gold, government securities, overnight schemes, schemes of other MF.
- Prior approval before trading
- Contra trade – 30 calendar days
  - Not applicable in case of investments and redemptions made pursuant to mandatory requirement under SEBI circular on 'Alignment of interest of Key Employees ('Designated Employees') of AMC with the unitholders of Mutual Fund'

## ● **Investment in shares, debentures, bonds, warrants, derivatives but not units of own MF**

- Investment through primary market
  - In case of public issue – no pre-clearance
  - In case of public issue – there should be no conflict of interest
  - In case of rights issue - no pre-clearance, however, to purchase rights renunciation, pre-clearance will be required
- Investment through secondary market – pre-clearance required
- Conditions: securities are not held by any scheme of MF in which AMC is a manager
  - If held by any scheme – cooling off period for 15 calendar days b/w investment by scheme and personal transactions

## ● **Investment in units of own MF**

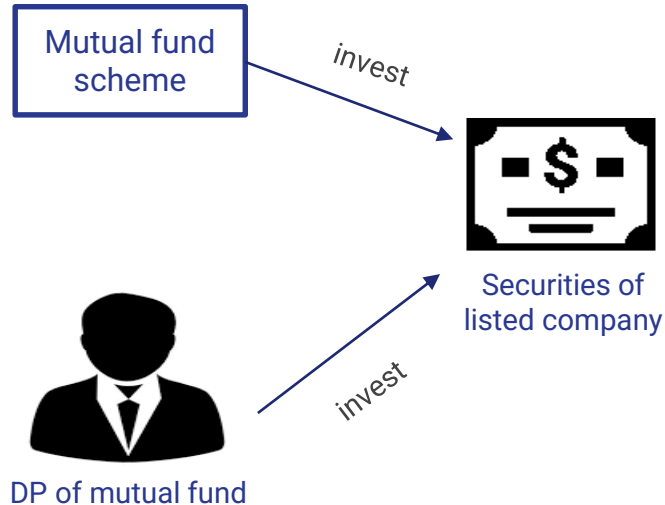
- No pre-clearance
- Disclosure of transaction within 7 calendar days
  - Not applicable in case of mandatory investments
- In case of SIP, disclosure to be made only at the time of first investment
- No trading basis UPSI

<sup>1</sup> [https://www.sebi.gov.in/legal/circulars/oct-2021/investment-trading-in-securities-by-employees-and-board-members-of-amc-s-and-trustees-of-mutual-funds\\_53618.html](https://www.sebi.gov.in/legal/circulars/oct-2021/investment-trading-in-securities-by-employees-and-board-members-of-amc-s-and-trustees-of-mutual-funds_53618.html)



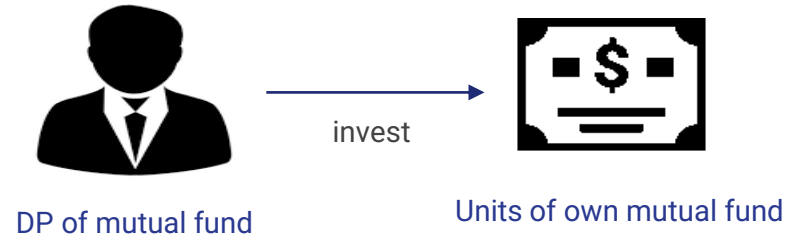
# Investment by DP of mutual fund

- Investment in securities of listed company



DP will have to comply with Schedule C and SEBI circular

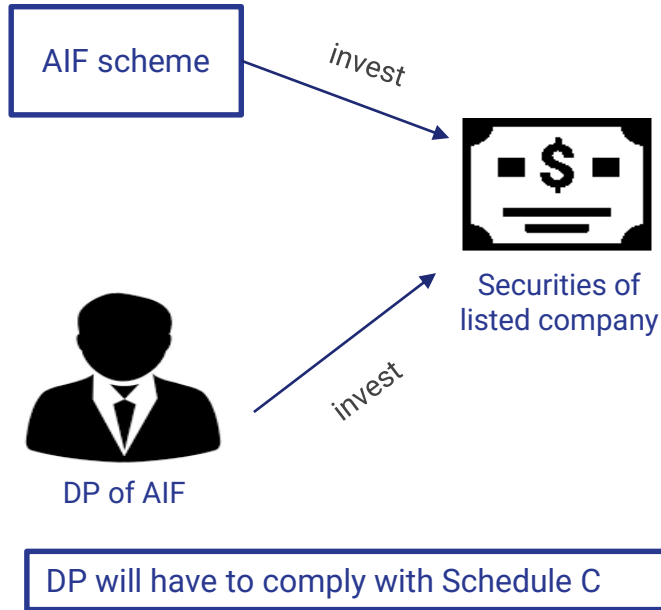
- Investment in listed/ unlisted units of own mutual funds



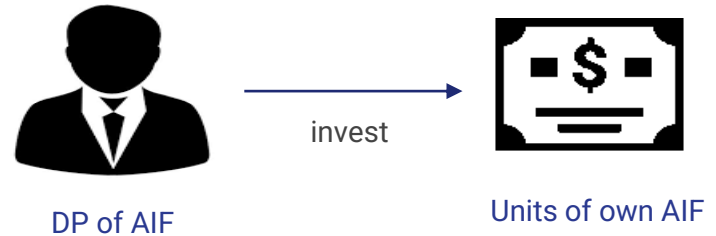
- No PIT compliance (however, trade should not be motivated by UPSI)
- DP will have to comply with SEBI circular
- If SEBI consultation paper is implemented, DP will have to comply with Schedule B1

# Investment by DP of AIF

- Investment in securities of listed company



- Investment in the units of own PIV



- If the units are listed – DP will have to comply with Schedule B
- If the units are unlisted – DP will have to comply with Schedule C (refer next slide)

# Investment by employee of AIF in the units of AIF

## SEBI informal guidance<sup>1</sup>

- Applicant is a fund manager of AIF, MF and PMS
- Employees of Applicant intend to invest in AIF scheme.
- They may be aware of the securities being bought and sold by Applicant.
- SEBI's view: AIF schemes invest in listed securities. Hence, Schedule B (now, Schedule C pursuant to amendment in 2019) will be applicable to trading by employees of fund manager in the units of AIF.

<sup>1</sup> [https://www.sebi.gov.in/sebi\\_data/commondocs/oct-2018/sebisbiinformal\\_p.pdf](https://www.sebi.gov.in/sebi_data/commondocs/oct-2018/sebisbiinformal_p.pdf)

# Summary

Investment by	Applicability of PIT Regulations in case of investment in					
	Listed company	Listed units of MF	Unlisted units of MF	Listed units of AIF	Unlisted units of AIF	PMS
<b>DP of listed company</b>	Comply with Code framed by listed company as per schedule B	No restrictions	No restrictions	No restrictions	No restrictions	Trade presumed to be motivated by UPSI
<b>DP of MF</b>	<ul style="list-style-type: none"> <li>Comply with Code framed by MF as per schedule C</li> <li>Comply with SEBI circular on trading in securities by MF employees</li> </ul>	<ul style="list-style-type: none"> <li>No PIT compliance</li> <li>Comply with SEBI circular on trading in securities by MF employees</li> <li>If SEBI consultation paper is implemented, DP will have to comply with Schedule B1</li> </ul>		No restrictions	No restrictions	No restrictions
<b>DP of AIF</b>	Comply with Code framed by AIF as per schedule C	No restrictions	No restrictions	Comply with Code framed by AIF as per schedule C	Comply with Code framed by AIF as per schedule C	No restrictions

# Our resources on the subject

- **Our resources on applicability of PIT Regulations on pooled investment vehicles**
  - [Applicability of insider trading regulations to pooled investment vehicles: A discussion on extent and rationale](#)
  - [SEBI: Insider trading norms should apply to fund managers](#)
  - [Comments on Consultation Paper on inclusion of Mutual Fund Units in PIT Regulations](#)
- **Our resources on Structured Digital Database**
  - [Structured Digital Database: some emerging concerns](#)
  - [FAQs on Structured Digital Database](#)
- **Other resources on PIT Regulations**
  - [Insiders, Connected Persons, and Designated Persons: Demystifying the Quandary of 'Insider' Trading Terms](#)
  - [Pledge as transfer: Several SEBI Regulations may require review post SC Ruling](#)
  - [Trading window restrictions get hardwired as trading freeze at PAN level for DPs](#)
  - [Trading window closure in case of debt listed company](#)
  - [FAQs on PIT Regulations](#)
- **Our resources on social media**
  - [Requirements under PIT Regulations- corporate employee perspective on Spotify](#)
  - [Presentation on PIT Regulations on YouTube](#)



Thank You!