

Management information system for
implementation of Handbook on adoption of
governance enhancing and non-legislative
elements of the draft Indian Financial Code

Department of Economic Affairs,
Ministry of Finance,
Government of India

May 7, 2014

Contents

1	Introduction	3
2	Consumer Protection	5
3	Consumer Protection for Retail Consumers	33
4	Framing Regulations	51
5	Notices	62
6	Transparency	65
7	Transparency in Board Meetings	68
8	Reporting	70
9	Approvals	73
10	Investigation	76
11	Adjudication	79
12	Imposition of Penalty	82
13	Capacity Building	85

Chapter 1

Introduction

This document is a **Management Information System (MIS)** for the **Ministry of Finance (MoF)** to monitor the implementation of the **FSLRC Guidance Handbook (Handbook)** by financial sector regulators. It breaks down each recommendation of the **Handbook** into clearly quantifiable questions that the **MoF** can easily verify from the regulator's website and then assess whether the recommendation has been complied with.

This **MIS** has been prepared with to fulfill the following objectives:

1. Provide an objective system of recording and aggregating information related to the compliance with the **Handbook**; and
2. Enhance communication between regulators and **MoF** with regard to the adoption of the **Handbook**.

1.1 How to use this **MIS**

In monitoring implementation of the **Handbook**, **MoF** will follow the following steps:

1. Read the specific recommendation of the **Handbook**;
2. Understand the broad question that needs to be asked in order to answer whether the specific recommendation has been complied with;
3. Break the broad question into smaller, specific questions that need to be answered in order to arrive at the final answer. These questions have been provided in the appended spreadsheet (**Spreadsheet on the**

analysis and reporting of the implementation of the FSLRC Handbook (MIS Compliance Tracker)) that will be used to monitor compliance;

4. Identify, analyse and report the sources of information to be studied to answer the specific questions;
5. Based on this analysis, answer the broad question on whether the recommendation has been implemented;
6. If in the MoF's assessment, a recommendation has not been complied with, provide a statement on the reason for such a finding and identify measures the regulator has to take to ensure compliance.

The results of MoF's monthly assessment will be made public. Additionally, MoF will re-write the annual report rules for regulators to ensure that the reporting requirements are in compliance with the Handbook, and provide monitorable information with regard to compliance with the Handbook.

The following chapters track chapter 14 (Implementation) of the Handbook.

Chapter 2

Consumer Protection

2.1 Requirement of professional diligence

2.1.1 Recommendation 14.1.1.(1)

1. **Recommendation:**

“Document the existing regulations that deal with the standards of diligence that the financial service providers in different sectors must ensure in their dealings with consumers.”

2. **Compliance measure:** Has the regulator compiled a set of all existing regulations¹ on standards of diligence and published the same on its website?

3. **Specific questions to be answered:**

- (a) Does such a compilation exist?;
- (b) Is the compilation exhaustive (the regulator has to certify on its website that the regulations in the compilation are exhaustive, and no other regulation on this area exists)?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.

¹In this MIS and in the Handbook, “regulations” includes all rules, regulations, circulars and other subordinate legislation issued by regulators.

- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.1.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

2.1.2 Recommendation 14.1.1.(2)

1. **Recommendation:**

“Use the text of section 85 (Requirement of professional diligence) of IFC, to issue regulations requiring all financial service providers regulated by the respective regulator to follow professional diligence in their dealings with consumers.”

2. **Compliance measure:** Has the regulator issued regulations requiring all financial service providers under its jurisdiction to follow professional diligence with respect to its consumers in accordance with the *IFC*?
3. **Specific questions to be answered:**
- (a) Does such a regulation exist?

- (b) Has the regulator has followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?;
- (c) Does the regulation match the minimum standards of Section 85 of the *IFC* i.e. is the standard of diligence required commensurate with:
 - i. Honest market practice;
 - ii. The principle of good faith;
 - iii. The level of knowledge, experience and expertise of the consumer;
 - iv. The nature and degree of risk embodied in the financial product or financial service being availed by the consumer; and
 - v. The extent of dependence of the consumer on the financial service provider?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and

- Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.1.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

2.1.3 Recommendation 14.1.1.(3)

1. **Recommendation:**

“Create and publish a statement on the consistency between the requirement of professional diligence enshrined in section 85 of IFC, and the existing regulations governing interaction between financial service providers and consumers. Based on this statement, make amendments to sector-specific regulations to ensure consistency of regulations with the overarching regulation requiring professional diligence in dealing with consumers.”

2. **Compliance measure:** To comply with this recommendation, the regulator has to write and publish a statement of consistency between the requirement of professional diligence enshrined in section 85 of the *IFC* and the existing regulations governing interaction between financial service providers and consumers. It then has to amend its existing regulations.
3. **Specific questions to be answered:**
- (a) Has the regulator, after issuing a regulation as per recommendation 14.1.1.(2), written and published (on its website) a statement of consistency between existing regulations governing requiring diligence by financial service providers in their dealings with consumers, and the regulation issued as per recommendation 14.1.1.(2)?
 - (b) Has the regulator amended its sector-specific regulations in accordance with this statement?
 - (c) Have the amendments to the regulations followed the regulation-making process stated in the **Handbook**?
4. **Steps to be taken by MoF for answering these questions:**

2.2. PROTECTION FROM UNFAIR TERMS IN FINANCIAL CONTRACTS⁹

- Check the regulator’s website for the information.
 - **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.1.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

2.2 Protection from unfair terms in financial contracts

2.2.1 Recommendation 14.1.2.(1)

1. **Recommendation:**

“Document the existing regulations that deal with unfair terms of contract in the sectors regulated by the respective regulators.”

2. **Compliance measure:**

- (a) Has the regulator compiled a set of all existing regulations on unfair terms of contract in various sectors regulated by it and published the compilation on its website?

3. **Specific questions to be answered:**

- (a) Does a compilation of existing regulations on unfair terms of contract exist on the regulator's website?
- (b) Is the compilation exhaustive (the regulator has to certify on its website that the regulations in the compilation are exhaustive, and no other regulation on this area exists)?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator's website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**
- Report the final objective score in a "Yes"/"No" manner in **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a "No", MoF must provide the following:

- A statement as to why it thinks the answer to the question is a "No"; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a "Yes", the regulator will be deemed to have complied with recommendation 14.1.2.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

2.2.2 Recommendation 14.1.2.(2)

1. **Recommendation:**

“Use the text of sections 86 (Unfair terms in financial contracts) and 87 (Non-negotiated contracts) of the IFC, to issue a regulation prohibiting unfair terms contract in non-negotiated financial contracts. Every term in the regulation should be the same as that in these sections.”

2. **Compliance measure:** Has the regulator issued regulations on unfair terms in non-negotiated financial contracts in accordance with the *IFC*?

3. **Specific questions to be answered:**

- (a) Check regulator’s website to see whether such regulations exists;
- (b) Check whether the regulator has followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?;
- (c) Check whether the regulations match the minimum standards of Section 86 (Unfair terms in financial contracts) and 87 (Non-negotiated contracts) of the *IFC*?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to the final question in the table ?? is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.2.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

2.2.3 Recommendation 14.1.2.(3)

1. Recommendation:

“Specify by regulation, an illustrative list of terms that would be considered to be unfair terms. This list must be based on the observations and case laws in the regulated sector for each respective regulator, and application of the tests provided in section 86 of the IFC”

2. **Compliance measure:** To comply with this recommendation, the regulator has to issue regulations:
 - (a) specifying an illustrative list of terms that would be considered to be unfair terms; and
 - (b) the list of terms has to be based on an observation and case-law in the regulated sector, and application of the tests provided in Section 86 (Unfair terms in Financial Contracts) of the *IFC*.
3. **Specific questions to be answered:**
 - (a) Does the regulation exist?
 - (b) Has the regulator followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?;

2.2. PROTECTION FROM UNFAIR TERMS IN FINANCIAL CONTRACTS¹³

- (c) Do the documents accompanying the regulations explain how the regulation is based on an observance of the regulated sector and existing case-laws?
- (d) Do the regulations apply the tests provided in Section 86 of the *IFC*?

4. Steps to be taken by **MoF** for answering these questions:

- Check the regulator’s website for the information.
 - **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.2.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

2.2.4 Recommendation 14.1.2.(4)

1. Recommendation:

“Create and publish a statement on the consistency between the protection against unfair terms of contract envisaged in

section 86 of the IFC, and the existing regulations governing such terms in various sectors. Based on this statement, make amendments to sectoral regulations to ensure consistency of regulations with the overarching regulation protecting consumers from unfair terms of contract.”

2. **Compliance measure:** To comply with this recommendation the regulator has to issue a statement of consistency between existing regulations and its new regulation on unfair terms in financial contracts. It then has to amend its existing regulations.
3. **Specific questions to be answered:**
 - (a) Does a statement of consistency between existing regulations governing unfair terms in financial contracts, and the regulation issued as per recommendation 14.1.2.(2) exist?
 - (b) Has the regulator amended its sector-specific regulations in accordance with this statement?
 - (c) Have the amendments to the regulations followed the regulation-making process stated in the **Handbook**?
4. **Steps to be taken by MoF for answering these questions:**
 - Check the regulator’s website for the information.
 - **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.2.(4). In any other case, the regulator will be deemed to have not complied with the regulation.

2.3 Protection from unfair conduct

2.3.1 Recommendation 14.1.3.(1)

1. **Recommendation:** *“Document the existing regulations that deal with unfair conduct in the sectors regulated by the respective regulators. ”*
2. **Compliance measure:** Has the regulator compiled a set of all existing regulations on unfair conduct in various sectors regulated by it and published the compilation on its website?
3. **Specific questions to be answered:**
 - (a) Does a compilation of existing regulations on unfair conduct exist on the regulator’s website?
 - (b) Is the compilation exhaustive (the regulator has to certify on its website that the regulations in the compilation are exhaustive, and no other regulation on this area exists)?
4. **Steps to be taken by MoF for answering these questions:**
 - Check the regulator’s website for the information.
 - **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.

- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.3.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

2.3.2 Recommendation 14.1.3.(2)

1. **Recommendation:**

“Use the text of sections 89, 90 and 91 of the IFC, to issue a regulation prohibiting unfair conduct by financial service providers or their representatives. Every term in the regulation should be defined in the same way as it is defined in these sections.”

2. **Compliance measure:** To comply with this recommendation regulators have to frame regulations on unfair terms in non-negotiated financial contracts in accordance with Sections 89, 90 and 91 of the *IFC*.
3. **Specific questions to be answered:**
- Does such a regulation exist?;
 - Has the regulator followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?;

- Do the regulations match the minimum standards of Sections 89, 90 and 91 of the *IFC*?
4. **Steps to be taken by MoF for answering these questions:**
- Check the regulator’s website for the information.
 - MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.3.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

2.3.3 Recommendation 14.1.3.(3)

1. **Recommendation:**

“Create a statement on the consistency between the prohibition of unfair conduct envisaged in sections 89, 90 and 91 of the IFC, and the existing regulations governing such conduct in various sectors. Based on this statement, make amendments to sectoral regulations to ensure consistency of

regulations with the overarching regulation prohibiting unfair conduct.”

2. **Compliance measure:** To comply with this recommendation the regulator has to issue a statement of consistency between its existing regulations and the new regulation on unfair conduct framed as per recommendation 14.1.3.(2). It then has to amend its existing regulations.
3. **Specific questions to be answered:**
 - (a) Has the regulator, after issuing a regulation as per recommendation 14.1.3.(2), written and published (on its website) a statement of consistency between existing regulations governing unfair conduct, and the regulation issued as per recommendation 14.1.3.(2)?
 - (b) Has the regulator amended its sector-specific regulations in accordance with this statement?
 - (c) Have the amendments to the regulations followed the regulation-making process stated in the **Handbook**?
4. **Steps to be taken by MoF for answering these questions:**
 - Check the regulator’s website for the information.
 - **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.3.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

2.4 Protection of personal information

2.4.1 Recommendation 14.1.4.(1)

1. **Recommendation:**

“Use the text of sections 92 and 93 of IFC, to issue a regulation protecting personal information of all consumers interacting with the financial sector regulated by the respective regulator. Every definition and obligation in the regulation should be the same as it is in these sections.”

2. **Compliance measure:**

- (a) The regulator has to issue regulations protecting personal information of all consumers using the text of Section 92 (Meaning of personal information) and Section 93 (Principles governing use of personal information) of the *IFC*?
- (b) Is every definition and obligation in the regulations the same as it is in Sections 92 and 93 of the *IFC*?

3. **Specific questions to be answered:**

- (a) Does such a regulation exist?
- (b) Has the regulator followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?
- (c) Do the regulations match the minimum standards of Section 92 (Meaning of personal information) and Section 93 (Principles governing use of personal information) of the *IFC*?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.

- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.4.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

2.4.2 Recommendation 14.1.4.(2)

1. **Recommendation:**

“

Document the existing regulations that deal with protection of personal information of financial consumers.”

2. **Compliance measure:**

- (a) Has the regulator compiled a set of all existing regulations on unfair conduct in various sectors regulated by it and published the compilation on its website?

3. **Specific questions to be answered:**

- (a) Check whether a compilation of existing regulations on unfair conduct exist on the regulator's website.
- (b) Check whether the compilation is exhaustive i.e. the regulator has to certify on its website that the regulations in the compilation are exhaustive, and no other regulation on this area exists.

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator's website for the information.
 - MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a "Yes"/"No" manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a "No", MoF must provide the following:
- A statement as to why it thinks the answer to the question is a "No"; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a "Yes", the regulator will be deemed to have complied with recommendation 14.1.4.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

2.4.3 Recommendation 14.1.4.(3)

1. **Recommendation:**

"Create a statement on the consistency between the protection of personal information envisaged in sections 92 and 93

of IFC, and the existing regulations governing such information in various sectors. Based on this statement, regulators should make amendments to sectoral regulations to ensure consistency of regulations with the overarching regulation protecting personal information.”

2. **Compliance measure:** To comply with this recommendation the regulator has to write and publish a statement of consistency between existing regulations on the protection of personal information and the regulation it has framed as per Recommendation 14.1.4. It then has to amend its existing regulations.
3. **Specific questions to be answered:**
 - (a) Has the regulator, after issuing a regulation as per recommendation 14.1.4.(1), written and published (on its website) a statement of consistency between existing regulations governing the protection of personal information, and the regulation issued as per recommendation 14.1.4.(1)?
 - (b) Has the regulator amended its sector-specific regulations in accordance with this statement?
 - (c) Have the amendments to the regulations followed the regulation-making process stated in the **Handbook**?
4. **Steps to be taken by MoF for answering these questions:**
 - Check the regulator’s website for the information.
 - **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS**

Compliance Tracker, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.4.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

2.5 Requirement of fair disclosure

2.5.1 Recommendation 14.1.5.(1)

1. **Recommendation:**

“Document the existing disclosure regulations in the sectors regulated by the respective regulators.”

2. **Compliance measure:** To comply with this recommendation the regulator has to create a document compiling its existing disclosure regulations.

3. **Specific questions to be answered:**

- (a) Does a compilation of existing disclosure regulations exist on the regulator’s website?
- (b) Is the compilation exhaustive (the regulator has to certify on its website that the regulations in the compilation are exhaustive, and no other regulation on this area exists)?

4. **Steps to be taken by **MoF** for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of

compliance/non-compliance should be identified and steps to ensure compliance should be suggested.

- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.5.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

2.5.2 Recommendation 14.1.5.(2)

1. **Recommendation:**

“Use the text of sections 95 and 96 of the IFC, to issue a regulation requiring initial disclosures and continuing disclosures by financial service providers and their representatives. Every definition and obligation in the regulation should be the same as that in these sections.”

2. **Compliance measure:** Has the regulator issued regulations on initial and continuing disclosures in accordance with Section 95 (Initial Disclosures) and Section 96 (Continuing disclosures) of the *IFC*?
3. **Specific questions to be answered:**
- (a) Does such a regulation exist?
 - (b) Has the regulator followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with

problem statement, statement of objectives, cost-benefit analysis and notice for comments)?;

- (c) Do the regulations match the minimum standards of Sections 95 and 96 of the *IFC*?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.5.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

2.5.3 Recommendation 14.1.5.(3)

1. **Recommendation:**

“Create a statement on the consistency between the disclosure requirements envisaged in sections 95 and 96 of the IFC, and the existing regulations governing disclosures in various

sectors. Based on this statement, regulators should make amendments to sectoral regulations to ensure consistency of regulations with the overarching regulation requiring initial disclosures and continuing disclosures.”

2. Compliance measure:

- (a) The regulator, after issuing a regulation as per recommendation 14.1.5.(2), has to write and publish (on its website) a statement of consistency between existing regulations governing initial and continuing disclosures, and the regulation issued as per recommendation 14.1.5.(2)
- (b) The regulator has to amend its sector-specific regulations in accordance with this statement?
- (c) The amendments to the regulations followed the regulation-making process stated in the **Handbook**?

3. Specific questions to be answered:

- (a) Does a statement of consistency between its regulations on initial and continuing disclosures (issued as per recommendation 14.1.5.(2)) and its existing regulations exist?
- (b) Have existing regulations been amended in accordance with the statement of consistency?
- (c) Has the regulator followed the **Handbook** requirements on framing regulations in amending the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?

4. Steps to be taken by **MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.

- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.5.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

2.6 Redress of complaints

2.6.1 Recommendation 14.1.6.(1)

1. **Recommendation:**

“Document the existing regulations requiring internal mechanisms to redress consumer grievances in the sectors regulated by the respective regulators.”

2. **Compliance measure:** The regulator has to compile a set of all existing disclosure regulations requiring financial service providers to have internal mechanisms to redress consumer grievances in various sectors regulated by it and published the compilation on its website.
3. **Specific questions to be answered:**
- (a) Does a compilation of existing regulations on redress mechanisms exist?
 - (b) Is the compilation exhaustive (the regulator has to certify on its website that the regulations in the compilation are exhaustive, and no other regulation on this area exists)?

4. **Steps to be taken by MoF for answering these questions:**
 - Check the regulator’s website for the information.
 - MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.6.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

2.6.2 Recommendation 14.1.6.(2)

1. Recommendation:

“Use the text of section 98 of the IFC, to issue a regulation requiring each financial service provider to develop and maintain an internal mechanism for grievance redress”

2. **Compliance measure:** The regulator has to issue regulations requiring financial service providers to develop and maintain internal mechanisms for grievance redressal in accordance with Section 98 (Responsibility of financial service providers) of the *IFC*

3. Specific questions to be answered:

- (a) Do the regulations exist?;
- (b) Has the regulator followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?;
- (c) Do the regulations match the minimum standards of Sections 98 of the *IFC*?

4. Steps to be taken by MoF for answering these questions:

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.

5. Non-compliance: For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No” in **MIS Compliance Tracker**, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. Final answer: If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.6.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

2.6.3 Recommendation 14.1.6.(3)

1. Recommendation:

“Use the text of section 99 of the IFC, relevant information about the respective sectors, and international best practices, to issue regulations governing the systems and processes for handling consumer grievances through the internal mechanism for grievance redress”

2. **Compliance measure:** The regulator has to issue regulations requiring financial service providers to develop and maintain internal mechanisms for grievance redressal in accordance with Section 99 (Regulations regarding redress of complaints) of the *IFC*?

3. Specific questions to be answered:

- (a) Do such regulations exist?
- (b) Has the regulator followed the **Handbook** requirements on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?;
- (c) Do the regulations match the minimum standards of Sections 99 of the *IFC*?

4. Steps to be taken by **MoF** for answering these questions:

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in Table ??, and therefore a “No” in Table ??, MoF must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the MIS Compliance Tracker is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.6.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

2.6.4 Recommendation 14.1.6.(4)

1. Recommendation:

“Create a statement on the consistency between the requirements envisaged in section 98 of the IFC, and the existing regulations governing internal redress of consumer grievances in various sectors. Based on this statement, regulators should make amendments to sectoral regulations to ensure consistency of regulations with the overarching regulation requiring internal mechanisms to redress consumer grievances.”

2. Compliance measure:

- (a) Has the regulator, after issuing a regulation as per recommendation 14.1.6.(2), written and published (on its website) a statement of consistency between existing regulations, and the regulation issued as per recommendation 14.1.6.(2)?
- (b) Has the regulator amended its sector-specific regulations in accordance with this statement?
- (c) Have the amendments to the regulations followed the regulation-making process stated in the Handbook?

3. Specific questions to be answered:

- (a) Does a statement of consistency between its regulations (issued as per recommendation 14.1.6.(2)) and its existing regulations exist?
- (b) Have existing regulations have been amended in accordance with the statement of consistency?

- (c) Has the regulator followed the **Handbook** requirements on framing regulations in amending the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
 - **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to the final question in the table ?? is a “Yes”, the regulator will be deemed to have complied with recommendation 14.1.6.(4). In any other case, the regulator will be deemed to have not complied with the regulation.

Chapter 3

Consumer Protection for Retail Consumers

3.1 Suitability of advice for retail consumers

3.1.1 Recommendation 14.2.1.(1)

1. Recommendation:

“Use the text of Section 100 of the IFC, to issue a regulation requiring suitability assessment to be done by any retail advisor or its representative before giving advice to a retail consumer. The definitions and obligations in the regulations must be the same as those in the section.”

2. Compliance measure:

- (a) The regulator has to issue a regulation requiring suitability assessment to be done by any retail advisor or its representative before giving advice to a retail consumer; and
- (b) The definitions and obligations in the regulations have to match Section 100 of the *IFC*.

3. Specific questions to be answered:

- (a) Does such a regulation exist?
- (b) Has the regulator followed the *IFC* requirements as outlined in the **Handbook** on framing regulations in making the regulations

(board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments);

(c) Does the regulation match Section 100 of the *IFC*?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.1.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

3.1.2 Recommendation 14.2.1.(2)

1. **Recommendation:**

“Specify, by regulation, a list of financial products and financial services that must not be provided to retail consumers without being accompanied by advice as per section 100 of

IFC. IFC, *This list must be based on the tests given in Section 101 of the.*”

2. Compliance measure:

- (a) The regulator has to issue a regulation specifying a list of financial products and financial services that must not be provided to retail consumers without being accompanied by advice as per section 100 of *IFC*; and
- (b) The tests in the regulation have to match Section 101 of the *IFC*.

3. Specific questions to be answered:

- (a) Does such a regulation exist?
- (b) Has the regulator followed the *IFC* requirements as outlined in the **Handbook** on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments);
- (c) Does the regulation match Section 101 of the *IFC*?

4. Steps to be taken by MoF for answering these questions:

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. Non-compliance: For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.1.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

3.1.3 Recommendation 14.2.1.(3)

1. **Recommendation:**

“Document the existing regulations that deal with suitability requirements in the sectors regulated by the respective regulators.”

2. **Compliance measure:**

- (a) The regulator has to compile a set of all existing regulations that deal with suitability requirements and publish the compilation on its website.
- (b) The regulator has to certify that the compilation is exhaustive.

3. **Specific questions to be answered:**

- (a) Does such a compilation exist?
- (b) Has the regulator has certified that the compilation is exhaustive?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.

- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.1.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

3.1.4 Recommendation 14.2.1.(4)

1. **Recommendation:**

“Create a statement on the consistency between the suitability requirement envisaged in sections 100 and 101 of the IFC, and the existing regulations governing advisors in various sectors. Based on this statement, make amendments to sectoral regulations to ensure consistency of regulations with the overarching regulation requiring suitability assessment.”

2. **Compliance measure:**

- (a) The regulator, after issuing a regulation as per recommendations 14.2.1.(1) and 14.2.1.(2), has to write and publish (on its website) a statement of consistency between existing regulations, and the regulation issued as per recommendations 14.2.1.(1) and 14.2.1.(2).
- (b) The regulator has to amend its sector-specific regulations in accordance with this statement.
- (c) The amendments to the regulations have to follow the regulation-making process stated in the **Handbook**?

3. **Specific questions to be answered:**

- (a) Does such a compilation exist?
- (b) Has the regulator has certified that the compilation is exhaustive?

4. **Steps to be taken by MoF for answering these questions:**

- Check regulator’s website to see whether a statement of consistency between its regulation and its existing regulations exists;
 - Check regulator’s website to see whether existing regulations have been amended in accordance with the statement of consistency; and
 - Check whether the regulator has followed the **Handbook** requirements on framing regulations in amending the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments).
5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.1.(4). In any other case, the regulator will be deemed to have not complied with the regulation.

3.2 Dealing with conflict of interests

3.2.1 Recommendation 14.2.2.(1)

1. **Recommendation:**

“Use the text of section 102 (Dealing with conflict of interests) of the IFC, to issue a regulation requiring disclosure of conflicts of interest and the duty to give precedence to consumer’s interest over other interests while giving advice to a retail consumer. The definitions and obligations in the regulations must be the same as those in the section.”

2. **Compliance measure:**

- (a) The regulator has to issue a regulation requiring disclosure of conflicts of interest and the duty to give precedence to consumer's interest over other interests while giving advice to a retail consumer.
- (b) The definitions and obligations in the regulations have to match Section 102 of the *IFC*.

3. **Specific questions to be answered:**

- (a) Does such a regulation exist?
- (b) Has the regulator followed the *IFC* requirements as outlined in the **Handbook** on framing regulations in making the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments)?
- (c) Does the regulation match Section 102 of the *IFC*?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator's website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a "Yes"/"No" manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a "No", **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a "No"; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.2.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

3.2.2 Recommendation 14.2.2.(2)

1. **Recommendation:**

“Document the existing regulations that deal with conflicts of interest in the sectors regulated by the respective regulators.”

2. **Compliance measure:**

- (a) The regulator has to compile a set of all existing regulations that deal with conflict of interests in the sectors regulated by it and publish the compilation on its website; and
- (b) The regulator has to certify that the compilation is exhaustive.

3. **Specific questions to be answered:**

- (a) Does such a compilation exist?
- (b) Has the regulator has certified that the compilation is exhaustive?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.2.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

3.2.3 Recommendation 14.2.2.(3)

1. **Recommendation:**

“Create a statement on the consistency between the regulation envisaged in section 102 (Dealing with conflict of interests) of the IFC, and the existing regulations governing conflicts of interest. Based on this statement, make amendments to sectoral regulations to ensure consistency of regulations with the overarching regulation requiring suitability assessment.”

2. **Compliance measure:**

- (a) The regulator, after issuing a regulation as per recommendation 14.2.2.(1), has to write and publish (on its website) a statement of consistency between existing regulations, and the regulation issued as per recommendation 14.2.2.(1);
- (b) The regulator has to amend its sector-specific regulations in accordance with this statement; and
- (c) The amendments to the regulations have to follow the regulation-making process stated in the **Handbook**.

3. **Specific questions to be answered:**

- Check regulator’s website to see whether such a compilation exists.
- Check whether the regulator has certified that the compilation is exhaustive.

4. **Steps to be taken by MoF for answering these questions:**

- Check regulator’s website to see whether a statement of consistency between its regulation and its existing regulations exists;
- Check regulator’s website to see whether existing regulations have been amended in accordance with the statement of consistency; and
- Check whether the regulator has followed the **Handbook** requirements on framing regulations in amending the regulations (board resolution asking for draft regulations, publication of draft regulations along with problem statement, statement of objectives, cost-benefit analysis and notice for comments).

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.2.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

3.3 Access to a grievance redress mechanism

3.3.1 Recommendation 14.2.3.(1)

1. **Recommendation:**

“Document the grievance redress systems: The systems and processes of the existing de jure grievance redress systems – combining laws, regulations and internal policies – should be documented by each respective regulator. Each regulator should also create and publish a database of consumer grievances collected over the years.”

2. **Compliance measure:**

- (a) The regulator has to compile a set of all existing laws, regulations and internal policies that relate to grievance redressal for retail consumers and published it on its website.
- (b) The regulator has to certify that the compilation is exhaustive.

3. **Specific questions to be answered:**

- (a) Does such a compilation exist?
- (b) Has the regulator has certified that the compilation is exhaustive?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.3.(1). In any other case, the regulator will be deemed to have not complied with the regulation.

3.3.2 Recommendation 14.2.3.(2)

1. Recommendation:

“Identify gaps in de jure and de facto grievance redress systems: Identify gaps, if any, between the de facto and de jure arrangements on grievance redress.”

2. Compliance measure:

- (a) The regulator has to publish a document on its website identifying gaps in *de facto* and *de jure* arrangements on grievance redress.
- (b) The regulator has to follow a public consultative process in the identification of such gaps, and received comments have to be made public along with the document.
- (c) The document on the website has to explain how the comments received from the consultative process were considered.
- (d) The document has to clearly identify legal and administrative gaps, if any, in its systems of regulating consumer grievance redress.

3. Specific questions to be answered:

- (a) Does such a document exist?
- (b) Has the regulator has stated in the document that it followed a public consultative process?
- (c) Has the regulator has issued responses to comments received from the public consultative process along with the document?
- (d) Does the document clearly identify any legal and administrative gaps in the regulator’s systems of grievance redress?

4. Steps to be taken by MoF for answering these questions:

- Check the regulator’s website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the MIS Compliance Tracker.

- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.3.(2). In any other case, the regulator will be deemed to have not complied with the regulation.

3.3.3 Recommendation 14.2.3.(3)

1. **Recommendation:**

“Close the gap between de facto and de jure: If there are gaps between the de facto and the de jure, they need to be closed. As an example, if there are positions which are vacant, then those posts need to be filled.”

2. **Compliance measure:**

- (a) Pursuant to the identification of *de jure* and *de facto* gaps in its regulation of grievance redress mechanisms, has the regulator taken any steps towards closing the *de facto* gaps?

3. **Specific questions to be answered:**

- (a) Has the regulator clearly stated on its website the steps it will take to fill in the administrative gaps in its grievance redress mechanisms?
- (b) Is the regulator publishing a monthly status report on its efforts to fill in such administrative gaps on its website?

- (c) Is the regulator able to report a better enforcement of the existing laws and regulations on grievance redress by correlating it to the reduction of administrative gaps (the regulator should publish such a report on its website once every quarter)?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.3.(3). In any other case, the regulator will be deemed to have not complied with the regulation.

3.3.4 Recommendation 14.2.3.(4)

1. **Recommendation:**

“Implement process and information systems as per FSLRC Draft Indian Financial Code: Chapters 24, 25, 26 and 27 of

IFC, provide a detailed framework for a comprehensive two-tiered redress system. This system has two steps in the redress process: mediation and adjudication. It also envisages use of modern technology to keep the proceedings efficient, and minimise costs for the consumers. The bulk of these practices can be implemented in consumer grievance redress systems operated by all financial agencies.”

2. Compliance measure:

- (a) Has the regulator issued regulations implementing Chapters 24, 25, 26 and 27 of the *IFC*?

3. Specific questions to be answered:

- (a) Does such a regulation exist?
- (b) Has the regulation making process been in accordance with the *IFC* as outlined in the **Handbook**?
- (c) Does the regulation provides for a two-tiered approach to grievance redressal (mediation and adjudication)?
- (d) Are the powers of mediators and adjudicators are similar to those given in the *IFC*?
- (e) Are the processes to be followed by mediators and adjudicators are similar to those in the *IFC*?

4. Steps to be taken by **MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.2.3.(4). In any other case, the regulator will be deemed to have not complied with the regulation.

3.3.5 Recommendation 14.2.3.(5)

1. Recommendation:

“Consolidate infrastructure: The existing grievance redress systems under various financial sector regulators can make efficiency gains if they start using common infrastructure. This would also reduce the cognitive complexity faced by consumers, who should see a single point where grievances can be taken. Eventually when the Financial Redress Agency comes into existence, there will be one common set of facilities for consumer grievance redress in the financial system. Progress in this direction can be made by the existing systems of grievance redress if they plan and start sharing infrastructure.”

2. **Compliance measure:** The implementation of this recommendation requires a co-ordinated approach by all regulators. To implement this, regulators should demonstrate the following:
 - (a) They have agreed on a common system and infrastructure for the grievance redressal of retail consumers (the regulators may have their independent systems as per their regulation of different sectors. However, the procedure and venue of grievance redressal must be common).
 - (b) They have implemented their agreement by:
 - agreeing on a common plan of action for creating a common set of facilities for grievance redress; and

- implementing this plan of action by finding common office space, and establishing their staff and technology systems to enable a common system of grievance redress.

3. **Specific questions to be answered:**

- Check the websites of all regulators to see whether an agreement on a common system of grievance redress exists.
- Check whether the regulators have published on their website a plan of action to implement a common system of grievance redress.
- Check whether the regulators are reporting the progress of their implementation of this plan of action on their websites (each regulator should put up a report every quarter stating the progress made in implementing this common plan of action).

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator's website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a "Yes"/"No" manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a "No", MoF must provide the following:

- A statement as to why it thinks the answer to the question is a "No"; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a "Yes", the regulator will be deemed to have complied

50 *CHAPTER 3. CONSUMER PROTECTION FOR RETAIL CONSUMERS*

with recommendation 14.2.3.(4). In any other case, the regulator will be deemed to have not complied with the regulation.

Chapter 4

Framing Regulations

4.1 Initiating Regulation: Changes & Instruments

4.1.1 Recommendation 14.3.1

1. **Recommendation:**

“The board of every regulator may pass a resolution stating:

- 1. Every proposal to frame regulations should be approved by the board before further work on it is initiated;*
- 2. The proposal to the board should have a clear statement explaining the need for the regulation, and what the regulation will do;*
- 3. Once the board approves the proposal and the draft regulations have been prepared by the staff, the draft regulations and other related documents such as the cost-benefit analysis should be approved by the board;*
- 4. Once the draft regulations and related documents are approved, the regulator should release the documents for public comments. The documentation packet that goes out should satisfy the requirements of the regulation-making process of the IFC.*
- 5. The board should approve the final regulations after considering comments from the public and modifications of the regulation consequent to the comments (if any).”*

2. **Compliance measure:** Compliance with this measure requires the board of the regulator to pass a resolution stating that the regulator will implement the regulation-making process as recommended in the Handbook.
3. **Specific questions to be answered:**
 - (a) Has the board of the regulator passed a resolution and published it on its website?
 - (b) Does the resolution state that work on the drafting of a regulation will commence only after a proposal regarding the framing of such a regulation has been approved by the board?
 - (c) Does the resolution state that the draft regulations along all accompanying documents will have to be approved by the board before the draft regulation and accompanying documents are published?
 - (d) Does the resolution state that after board approval, the draft regulations and accompanying documents will be published on the regulator's website for public comments?
 - (e) Does the resolution state that the board will approve the final regulations after considering the comments received from the public?
 - (f) Does the resolution state that the final regulations will be published on the regulator's website only after a final approval from the board of the regulator?
4. **Steps to be taken by MoF for answering these questions:**
 - Check the regulator's website for the information.
 - MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.

- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.3.1 In any other case, the regulator will be deemed to have not complied with the regulation.

4.1.2 Recommendation 14.3.2

Statement of objectives

1. **Recommendation:**

“Instruments: The board of every regulator should pass a bye-law/resolution stating that every draft regulation will contain a statement of objectives of the regulation explaining:

1. *What the regulatory objectives are;*
2. *What legal provision(s) empower/obligate the regulator to pursue those objectives;*
3. *How the regulations will help the regulator in achieving the stated objective; and*
4. *The context in which the regulation is proposed.”*

2. **Compliance measure:** The implementation of this recommendation requires all of the following:

- (a) The board of the regulator has to pass a resolution stating that every draft regulation made public will be accompanied along with a statement of objectives of the draft regulation;
- (b) The statement of objectives has to explain the regulatory objectives, the relevant legal provisions, and an explanation of how the proposed regulation will solve the problem the regulation seeks to address.

3. Specific questions to be answered:

- (a) Has the board of the regulator passed a resolution and published it on its website?
- (b) Does the resolution state that every draft regulation will be published on the regulator's website along with a statement of objectives of the regulation?
- (c) Does the resolution state that the statement of objectives will explain the regulatory objectives of the regulator?
- (d) Does the resolution state that the statement of objectives will state the legal provisions which empower/obligate the regulator to pursue such objectives?
- (e) Does the resolution state that the statement of objectives will provide an explanation of how the draft regulations will help the regulator in achieving its stated objectives?
- (f) Does the resolution state that the statement of objectives will explain the factual and legal context in which the regulation is proposed?

4. Steps to be taken by MoF for answering these questions:

- Check the regulator's website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a "Yes"/"No" manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a "No", MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.3.2 In any other case, the regulator will be deemed to have not complied with the regulation.

Problem the regulation seeks to solve

1. Recommendation:

*“ 1. The board of every regulator should pass a bye-law/resolution stating that every draft regulation will contain a statement explaining the problem that the regulation seeks to solve.
2. The board of the regulator should ensure that its staff writes a detailed manual on how such a statement should be framed in line with Section 52(2) of the IFC.”*

2. Compliance measure: The implementation of this recommendation requires all of the following:

- (a) The board of the regulator has to pass a resolution stating that the staff of the regulator will prepare a manual on how to identify and state the problem that a regulation seeks to solve;
- (b) The board of the regulator has to pass a resolution stating that all draft regulations will be released along with a statement of the problem that the regulation seeks to solve; and
- (c) The preparation and publication of such a manual on the regulator’s website.

3. Specific questions to be answered:

- (a) Has the board of the regulator passed a resolution and published it on its website?
- (b) Does the resolution state that the staff of the regulator will write a manual on how to identify the problem to be solved by the regulation?
- (c) Does such a manual exist on the regulator’s website?

- (d) Does the manual identify the broad types of problems the regulator seeks to solve while making regulations?
- (e) Does the manual set out the parameters by which the regulator will identify the sort of problem to be solved by the regulation e.g. market failure in consumer protection, or regulatory compliance of an existing law?
- (f) Does the manual state the information to be contained in the statement on the problem to be solved?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.3.2 In any other case, the regulator will be deemed to have not complied with the regulation.

Cost Benefit Analysis

1. Recommendation:

“ Instruments:

1. *The board of every regulator should pass a resolution stating that every draft regulation will contain a **Cost Benefit Analysis (CBA)** of the regulations; and*
2. *The regulator will draft internal manuals on **CBA** complying with the minimum requirements set out in Section 54 of the IFC, and in-line with international best practices, some of which have been mentioned as examples in this section.”*

2. Compliance measure: The implementation of this recommendation requires the board of every regulator to mandate two things by a board resolution:

- (a) The staff of the regulator should prepare a detailed manual on **CBA**, get it approved by the board and publish the manual on the regulator’s website; and
- (b) A **CBA** should be done for every draft regulation and put up on the regulator’s website along with the draft regulation.

Finally, a **CBA** manual should be prepared and published on the regulator’s website.

3. Specific questions to be answered:

- (a) Does such a resolution exist?
- (b) Has the regulator prepared a detailed **CBA** manual and published it on its website?
- (c) Does the **CBA** manual comply with the minimum requirements of Section 54 of the *IFC*?
- (d) Does the **CBA** manual or an accompanying statement explain what international best practices the regulator has referred to while preparing the manual?
- (e) Does the **CBA** manual contain a statement on how it compares to other **CBA** manuals used by financial sector regulators worldwide, including points of departure from international best practices, if any?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
 - MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.3.2 In any other case, the regulator will be deemed to have not complied with the regulation.

4.2 Comments on draft Regulations: Recommendation 14.3.3

1. **Recommendation:**

“The board of every regulator should pass a resolution stating:

1. *Comments/representations will be sought from the public for all regulations, after the draft regulations have been approved by the board of the regulator;*

4.2. COMMENTS ON DRAFT REGULATIONS: RECOMMENDATION 14.3.359

2. *All comments/representations, and responses to the same will be made publicly available on the website of the regulator.*

3. *While publishing the draft regulations, the regulator will provide information on the manner in which representations should be made, and the time within which representations should be made; and*

4. *The regulator should allow representations to be made in both paper and electronic formats.*

5. *The regulator should ensure that its staff drafts manuals to standardise this process and publish such a manual on its website.”*

2. **Compliance measure:** The implementation of this recommendation requires the board of every regulator to mandate all of the following by a board resolution:

- (a) Comments/representations will be sought from the public for all regulations, after the draft regulations have been approved by the board of the regulator;
- (b) The regulator will allow comments to be submitted in both electronic and paper formats;
- (c) The regulator will respond to all comments received regarding the draft regulation;
- (d) All comments and the responses of the regulator to such comments will be made publicly available on the regulator’s website;
- (e) The staff of the regulator will write a detailed manual on how comments are to be solicited from the public, how the public may submit comments, and the time limit for submitting comments.
- (f) The website of the regulator will be re-designed to permit the easy submission of comments in electronic format through the regulator’s website.

3. **Specific questions to be answered:**

- (a) Does such a resolution exist?
- (b) Does the resolution state that comments/representations will be sought from the public for all draft regulations once they have been approved by the board of the regulator?

- (c) Does the resolution state that comments will be allowed in both electronic and paper formats?
- (d) Does the resolution state that the regulator will respond to all comments received and publish them on its website along with the comments?
- (e) Does the resolution state that the staff of the regulator will prepare a detailed manual implementing the board resolution?
- (f) Does such a manual exist?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.3.3 In any other case, the regulator will be deemed to have not complied with the regulation.

4.3 Approval of final Regulation: Recommendation 14.3.4

1. Recommendation:

“ The board of every regulator should pass a resolution stating:

- 1. The final regulations will be published only after they receive the approval of the board. The board should vote on the regulations to approve them;*
- 2. The board must consider the comments/representations received with regard to the draft regulations; and*
- 3. The response of the regulator to the comments should be made public at the same time as the publication of the final regulations.”*

2. **Compliance measure:** The implementation of this recommendation requires a compliance with the recommendations given in section 14.3.1 of the **Handbook**, and can be monitored using the detailed instructions given in sub-section 4.1.1 of this **MIS**.

Therefore, while measuring compliance of the recommendations in this sub-section, **MoF** should measure whether the measures listed in sub-section 4.1.1 have been implemented.

3. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** (for sub-section 4.1.1) is a “Yes”, the regulator will be deemed to have complied with recommendation 14.3.4 In any other case, the regulator will be deemed to have not complied with the regulation.

Chapter 5

Notices

5.1 Recommendation 14.4.2

1. **Recommendation:**

- “1. The board of the regulator should pass a resolution defining the finite list of notices it will send to regulated entities;*
- 2. The board of the regulator should pass a resolution stating that the regulator will prepare detailed manuals on the minimum content of each type of notice, and the circumstances in which such notice will be issued;*
- 3. The regulators should make manuals governing the standards and minimum content of the notices, upholding best principles of governance; and*
- 4. These manuals must be published.”*

2. **Compliance measure:** The board of the regulator has to pass a resolution stating:

- (a) The finite types of notices the regulator will issue to entities regulated by it (for guidance, regulators should refer to the *IFC*, which contains a finite list of notices that can be issued by regulators.¹ Regulators should also consult existing laws governing their operations and determine various types of notices that may be issued by them);

¹See Sections 399, 400, 276 and 404 of the *IFC*

- (b) The staff of the regulator will prepare a detailed manual on the following:
- the minimum information to be contained (legal provision under which notice is being issued, a statement of purpose of the notice, a statement of the action proposed to be taken before which the notice is being issued, reasons why the regulator is contemplating the proposed action, time and manner in which the recipient may reply to the notice) in **all** notices to be issued by the regulator;
 - the additional information which different types of notices may contain;
 - the type of notice to be issued for specific regulatory actions (for example, a show-cause notice should be issued before the commencement of an investigation)
 - the manner in which recipients of a notice from the regulator can respond to the notice.
 - well-defined exceptional circumstances when the requirements of minimum information can be diluted.

3. Specific questions to be answered:

- (a) Does such a resolution exist?
- (b) Does the resolution list the finite types of notices that will be issued by the regulator?
- (c) Does the resolution state that the staff of the regulator will prepare a manual on notices?
- (d) Does such a manual exist?
- (e) Does the manual state the minimum information to be contained in all notices to be issued by the regulator (legal provision under which notice is being issued, a statement of purpose of the notice, a statement of the action proposed to be taken before which the notice is being issued, reasons why the regulator is contemplating the proposed action, time and manner in which the recipient may reply to the notice)?
- (f) Does the manual contain additional information that different types of notices will contain?

- (g) Does the manual state the manner in which the recipients of a notice can respond to the notice?
- (h) Does the manual contain well-defined exceptions when the requirements of minimum information can be diluted?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.4.2 In any other case, the regulator will be deemed to have not complied with the regulation.

Chapter 6

Transparency

6.1 Recommendation 14.5.2

1. **Recommendation:**

“Implementing the recommendations under the IFC, would require all regulators to pass internal resolutions requiring their staff to:

- 1. Develop rules and processes for capturing the information that is required to be published under the IFC;*
- 2. Developing and maintaining appropriate information systems for centralising and storing this information;*
- 3. Developing rules and processes to ensure that all relevant information is published on the website;*
- 4. Developing and maintaining a web site, through which this information can be found in a text-searchable format;*
and
- 5. Ensuring that the design of the user interface of the website is clear and accessible as per global best practices.”*

2. **Compliance measure:** The board of the regulator has to pass a resolution stating:

- (a) that the staff of the regulator will read the *IFC* to understand the standards of transparency required with respect to:
 - regulation-making,

- accessibility of regulatory information in a text-searchable format; and
 - publication of interpretative statements and guidances.
- (b) that the regulator will publish a statement explaining what standards of transparency it is required to maintain as per the *IFC* and the **Handbook**;
- (c) that the staff of the regulator will prepare a detailed manual on ensuring that all regulatory information is made available on the regulator's website in a text-searchable format;
- (d) that this manual has to explain how the transparency practices of the regulator will be comparable to global best practices on the adoption of this manual;
- (e) that this manual will contain detailed rules and processes to ensure that all relevant information is published on the website;
- (f) that the regulator will use this manual and re-design its website and maintain it in such a manner that all information is available in a text-searchable format; and
- (g) that the design of the user interface of the website clear and accessible as per global best practices.

3. Specific questions to be answered:

- (a) Does such a resolution exist?
- (b) Does the resolution state that the staff of the regulator will read the *IFC* and the **Handbook** and prepare a statement explaining the standards of transparency it is required to maintain?
- (c) Has such a statement been published?
- (d) Does the resolution state that the staff of the regulator will prepare a manual on transparency?
- (e) Does such a manual exist?
- (f) Does the manual explain how the transparency practices of the regulator will be comparable to global best practices on the adoption of this manual ?
- (g) Does the manual contain contain detailed rules and processes to ensure that all relevant information is published on the website?

- (h) Does the resolution state that the regulator will use the manual on transparency to re-design its website and maintain it in such a manner that all information is available in a text-searchable format?
- (i) Has the regulator re-designed its website and made all its information available in a text-searchable format?
- (j) Does the resolution state that the design of the website and the user-interface has to be clear and accessible as per global best practices?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.6.2 In any other case, the regulator will be deemed to have not complied with the regulation.

Chapter 7

Transparency in Board Meetings

7.1 Recommendation 14.6.2

1. **Recommendation:**

*“1. The board of every regulator should pass a resolution adopting the provisions of Schedule 2 (Procedure of meetings of the board of the Financial Agency) of the IFC; and
2. The board of every regulator may pass a resolution to the effect that the regulator will publish all relevant information on its web-site in accordance with international best practices, some of which have been mentioned earlier in this section.”*

2. **Compliance measure:** The board of the regulator has to pass a resolution stating:

- (a) that it is adopting **all** the provisions of Schedule 2 (Procedure of meetings of the board of the Financial Agency) of the *IFC*; and
- (b) that the regulator will publish on its website all the information it is required to publish as per Schedule 2 (Procedure of meetings of the board of the Financial Agency) of the *IFC*;

3. **Specific questions to be answered:**

- (a) Does such a resolution exist?

- (b) Does the resolution adopt **all** the provisions of Schedule 2 (Procedure of meetings of the board of the Financial Agency) of the *IFC*?
- (c) Is the regulator publishing all relevant information pertaining to board meetings on its website?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.6.2. In any other case, the regulator will be deemed to have not complied with the regulation.

Chapter 8

Reporting

8.1 Recommendation 14.7.2

1. **Recommendation:** *“The responsibility of implementing this measure lies with the Central Government. It should therefore frame rules under existing laws that require regulators to report the following in their annual reports:*
 1. *A review of the regulator’s activities in relation to the discharge of its functions and the achievement of its objectives;*
 2. *All information required to understand the discharge of functions and the achievement of the objectives of the regulator, that has been published by the regulator;*
 3. *A statement of deliberations of the board of the regulator, along with the records of the meetings of the regulator;*
 4. *A statement indicating any statutory obligation that the regulator or its board has not complied with, and reasons for such non-compliance;*
 5. *A statement by the chairperson of the regulator in relation to the activities and performance of the board; and*
 6. *A statement of the major activities the regulator will undertake in the subsequent financial year.”*
2. **Compliance measure:** The responsibility of implementing this recommendation lies with **MoF**. It should re-write the reporting rules for regulators¹ under existing laws (and publish them on its website), and

¹The Reserve Bank of India Act, 1934 does not give any powers to the Central Government to make reporting rules for the **Reserve Bank of India (RBI)**. Any rules implementing this recommendation would therefore **not be applicable to RBI** under existing law.

ask regulators to report the following (in addition to their existing reporting requirements):

- (a) A review of the regulator's activities in relation to the discharge of its functions and the achievement of its objectives under existing laws;
- (b) All information required to understand the discharge of functions and the achievement of the objectives of the regulator, that has been published by the regulator;
- (c) A statement of deliberations of the board of the regulator, along with the records of the meetings of the regulator;
- (d) A statement indicating any statutory obligation that the regulator or its board has not complied with, and reasons for such non-compliance;
- (e) A statement by the chairperson of the regulator in relation to the activities and performance of the board; and
- (f) A statement of the major activities the regulator will undertake in the subsequent financial year.

3. Specific questions to be answered:

- (a) Has **MoF** re-written the reporting rules for regulators?
- (b) Do the rules state the time within which regulators will have to start complying with them?
- (c) Do the rules require a review of the regulator's activities in relation to the discharge of its functions and the achievement of its objectives under existing laws?
- (d) Do the rules require all information required to understand the discharge of functions and the achievement of the objectives of the regulator, that has been published by the regulator?
- (e) Do the rules require a statement of deliberations of the board of the regulator, along with the records of the meetings of the regulator?
- (f) Do the rules require a statement indicating any statutory obligation that the regulator or its board has not complied with, and reasons for such non-compliance?

- (g) Do the rules require a statement by the chairperson of the regulator in relation to the activities and performance of the board?
and
 - (h) Do the rules require a statement of the major activities the regulator will undertake in the subsequent financial year?
4. **Steps to be taken by MoF for answering these questions:** The implementation of this recommendation has to be done by glsmof. While monitoring the implementation of this recommendation, MoF should therefore ensure whether the existing reporting rules have been modified suitably to implement this recommendation.
 5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, MoF must identify why the reporting rules do not comprehensively implement the recommendation by
 - Providing a statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve the rules.
 6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, MoF will be deemed to have complied with recommendation 14.7.2 In any other case, MoF will be deemed to have not complied with the regulation.

Chapter 9

Approvals

9.1 Recommendation 14.8.2

1. **Recommendation:**

“As most of the changes mentioned in section ?? add legal process to the internal functioning of the regulator, the board of the regulator should pass a resolution to implement the following:

- 1. Creation of an internal manual on approval processes to ensure the processes outlined in the previous section are implemented as per the relevant IFC, provisions; and*
- 2. Mechanisms to ensure that regulated entities are aware of their rights during the various stages of the approval process.”*

2. **Compliance measure:** The recommendations in this section flow from section 9.5.1 (replicated in section 14.8.1) of the **Handbook**. As the recommendation states, the outcomes desired in section 9.5.1 require additions/modifications to the legal process for approvals. The regulators therefore have to pass resolutions stating:

- (a) that the staff of the regulator will prepare a manual on approval processes to bring about the desired outcomes listed in section 9.5.1 of the **Handbook**; and
- (b) that it will create mechanisms to ensure that regulated entities are aware of their rights during various stages of the approval process.

3. Specific questions to be answered:

- (a) Does such a resolution exist?
- (b) Does the resolution state that the staff of the regulator will create an internal manual on approval processes?
- (c) Does such a manual exist?
- (d) Does the manual provide information to regulated entities about (a) the form in which applications have to be made, (b) an exhaustive list of supporting documents to be submitted, depending on the type of approval sought, and (c) the criteria on which applications will be judged?
- (e) Does the manual provide a definite maximum time limit (not range) within which the application for an approval will be judged?
- (f) Does the manual state that before an approval is rejected the applicant will be given (a) a chance to present its case before the regulator, and (b) the reasons for the rejection?
- (g) Does the manual create a detailed process to ensure that whenever the deadlines for approving applications are not met, the fact and reason for delay is communicated to a superior officer or authority within the regulator to review the reasons for delay and take corrective actions?

4. Steps to be taken by MoF for answering these questions:

- Check the regulator's website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a "Yes"/"No" manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in the **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.8.2 In any other case, the regulator will be deemed to have not complied with the regulation.

Chapter 10

Investigation

10.1 Recommendation 14.9.2

1. **Recommendation:**

“As most of the changes mentioned here add legal process to the internal functioning of the regulator, the board of the regulator should pass a resolution to implement the following:

- 1. Creation of an internal manual on investigations to ensure the processes outlined in the previous section are implemented as per the relevant IFC, provisions; and*
- 2. Mechanisms to ensure regulated entities know of their rights during various stages of investigation.”*

2. **Compliance measure:** The implementation of the recommendations in this section require that a comprehensive manual be drafted with regard to investigations. The manual should implement the changes suggested in section 14.9.1 of the **Handbook**. To do so, the board of the regulator has to pass a resolution stating that:

- the staff of the regulator will write and publish an internal manual on investigations based on *IFC* principles; and
- the regulator will implement mechanisms to ensure that regulated entities are informed of their rights during investigation process.

The regulator must act accordingly and put up the resolution, the internal manual and method of informing regulated entities of their rights during investigation, on its website.

3. Specific questions to be answered:

- (a) Does a resolution on investigations exist?
- (b) Does the resolution state that the staff of the regulator will create a comprehensive manual on investigations complying with the relevant portions of the *IFC*?
- (c) Does a manual on investigations exist?
- (d) Does the manual on investigation state that there will be one designated officer of the regulator's staff in-charge of a specific investigation?
- (e) Does the manual require the investigating officer(s) to first identify the objective of the investigation with reference to specific legal violations?
- (f) Does the manual state that every investigation will have to be narrowly defined in scope and be completed within a pre-determined time-frame, with a provision for review if the investigation is not completed within a specified time-frame?
- (g) Does the manual state that investigators will have to provide reasons for requiring the presence of persons or collection of documents?
- (h) Does the manual state that the investigator(s) will (a) use procedures designed to cause the least amount of burden on regulated entities, (b) keep investigations confidential, and (c) make regular reports to a superior officer on the progress of the investigation?
- (i) Does the manual state that investigations should be (a) closed through a formal closure report, and (b) regulated entities being investigated should be informed of the closure of the investigation and supplied all information relied upon during the investigation?
- (j) Does the manual create mechanisms to ensure regulated entities know of their rights during various stages of the investigation?

4. Steps to be taken by MoF for answering these questions:

- Check the regulator's website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.

- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.9.2. In any other case, the regulator will be deemed to have not complied with the recommendation.

Chapter 11

Adjudication

11.1 Recommendation 14.10.2

1. Recommendation:

“The board of every regulator will have to draft internal bye-laws and manuals to implement this measure. Therefore the board of the regulator may pass a resolution to do the following:

- 1. Draft bye-laws/manual on enforcement proceedings in compliance with Sections 399, 400, 401, 402 and 403 of the IFC; and*
- 2. Create the position of administrative law officers as independent of the investigation and enforcement staff to judge the findings of the enforcement staff. Administrative law officers should be the sole authority responsible for writing and communicating decision orders.”*

2. **Compliance measure:** To comply with this recommendation the regulator has to establish an adjudicatory process as given in section 14.10.1 of the **Handbook**. In order to do so, the board of the regulator must pass a resolution stating:

- (a) that its staff will draft a manual on enforcement proceedings in compliance with Sections 399, 400, 401, 402 and 403 of the *IFC*; and
- (b) that the regulator will create the position of administrative law

officers as independent of the investigation and enforcement staff to judge the findings of the enforcement staff. Administrative law officers should be the sole authority responsible for writing and communicating decision orders.

3. Specific questions to be answered:

- (a) Does such a resolution exist?
- (b) Does the resolution state that the regulator's staff will prepare an enforcement manual in compliance with Sections 399, 400, 401, 402 and 403 of the *IFC*?
- (c) Does such a manual exist?
- (d) Does the manual state that a show-cause notice will be issued before any enforcement action is taken against a regulated entity?
- (e) Does the show-cause notice contain the requirements mentioned in Section 400 of the *IFC*?
- (f) Does the manual state that every show-cause notice will state how the noticee will be given an opportunity to be heard, including a hearing before the concerned officer (the hearing may be oral, or through electronic communication)?
- (g) Does the manual state that the show-cause notice must also state that the noticee has access to the material relied upon while issuing the show-cause notice?
- (h) Does the manual state that the show-cause notice will provide the noticee at least 28 days to make representations to the regulator?
- (i) Does the manual state that the final order by the regulator will be in the form of a decision order as defined in the *IFC*, and contain (a) the reasons for the decision taken, (b) the material relied on while taking the decision, and (c) state the noticee's right to appeal to an appellate authority, and the procedure for making such review?
- (j) Does the manual state that the final action taken and communicated via the decision order has to be the one proposed in the show-cause notice?
- (k) Does the manual clearly state the role and responsibilities of administrative law officers?

(1) Have the positions of administrative law officers been created?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.10.2. In any other case, the regulator will be deemed to have not complied with the recommendation.

Chapter 12

Imposition of Penalty

12.1 Recommendation 14.11.2

1. Recommendation:

“As most of the changes mentioned in section 12.5.1 add legal process to the internal functioning of the regulator, the board of the regulator should pass a resolution to implement the following:

1. Review existing practices of imposing penalties and harmonise them.

2. This should be done through creation of a manual that details the principle of proportionality the regulator will use for imposing penalties. The manual should be consistent with the IFC provisions mentioned in section 12.2 above.”

2. Compliance measure: To comply with this recommendation, the board of the regulator has to pass a resolution to:

(a) review the existing practises of imposing penalties and harmonise them;

(b) create a manual detailing the principles of proportionality to be used while imposing the penalties.

The regulator must act accordingly and put up the resolution, result of its review, plans for harmonisation and the manual on its website.

3. Specific questions to be answered:

- (a) Has the board of the regulator passed a resolution on penalties?
- (b) Does the resolution require the staff of the regulator to review existing practices on the determination and imposition of penalties and harmonise them?
- (c) Has the regulator published a statement on its website explaining how it has reviewed the existing practises of imposing penalties and how it has harmonised them in its manual on penalties?
- (d) Does the resolution require the staff of the regulator to prepare a manual on penalties and publish it?
- (e) Does such a manual exist?
- (f) Does the manual on penalties apply a principle of proportionality as stated in the *IFC*?
- (g) Is the manual consistent with the *IFC* provisions mentioned in section 12.2 of the **Handbook**?

4. **Steps to be taken by MoF for answering these questions:**

- Check the regulator’s website for the information.
- **MoF** should not at this stage, request or issue any instruction to the regulator to place the information on its website.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.

5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a “No”; and
- Steps needed to be taken to improve compliance.

6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.11.2. In any other case, the regulator will be deemed to have not complied with the recommendation.

Chapter 13

Capacity Building

13.1 Recommendation 14.12.1

1. Recommendation:

“1. MoF and Department of Economic Affairs (DEA) will build internal capacity and expertise on the Report of the Financial Sector Legislative Reforms Commission, and in particular, on the twelve measures regulators voluntarily agreed to implement.

2. DEA will design effective mechanisms to co-ordinate with, and assist regulators in their implementation of these twelve steps (including strengthening the Financial Stability and Development Council (FSDC)).”

2. Compliance measure: The responsibility of implementing this recommendation lies with MoF. In order to implement this recommendation, MoF will do the following:

- (a) Conduct workshops, conferences and training sessions for its staff every month on the *Report of the Financial Sector Legislative Reforms Commission*.
- (b) Conduct workshops and conferences for the staff of regulators on the *Report of the Financial Sector Legislative Reforms Commission* and the **Handbook**
- (c) Use the **MIS** to assist regulators in implementing the **Handbook**.

3. Specific questions to be answered:

- (a) Has **MoF** conducted workshops or training sessions for its staff on the *Report of the Financial Sector Legislative Reforms Commission*?
- (b) Has **MoF** conducted workshops or training sessions for the staff of regulators on the *Report of the Financial Sector Legislative Reforms Commission* and the **Handbook**?
- (c) Has **MoF** been monitoring the implementation of the **Handbook** monthly and publishing the **MIS** on its website every month?

4. Steps to be taken by **MoF for answering these questions:**

- Check the **MoF**'s website for the information.
- If the information does not exist on the website, this recommendation has not been implemented.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
- Report the final objective score in a "Yes"/"No" manner in the **MIS Compliance Tracker**.

5. Non-compliance: For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a "No", **MoF** must provide the following:

- A statement as to why it thinks the answer to the question is a "No"; and
- Steps needed to be taken to improve compliance.

6. Final answer: If the answer to all the questions in the **MIS Compliance Tracker** is a "Yes", **MoF** will be deemed to have complied with recommendation 14.12.1. In any other case, the **MoF** will be deemed to have not complied with the recommendation.

13.2 Recommendation 14.12.2

1. Recommendation:

“*DEA will design and initiate training and certification programs for staff of regulators, in order to bring them up to date on recent developments in financial regulatory governance, and common principles necessary to harmonise financial sector regulation. This will include the following processes:*

1. *The DEA will build a curriculum and testing infrastructure for certification tests for staff of regulators. Institutions like the National Institute of Securities Markets (NISM) and the National Institute for Bank Management (NIBM) will be encouraged to implement the curriculum in their programs;*
2. *The curriculum will broadly test knowledge of:*
 - (a) *Hundred small steps¹;*
 - (b) *FSLRC Analysis and Recommendations²;*
 - (c) *Report of the High Powered Expert Committee on Making Mumbai an International Financial Centre³; and*
 - (d) *Report of the Working Group on Foreign Investment⁴.*
3. *Thirty-three percent of all existing staff employed with a regulator at the commencement of this certification program should pass the certification test every year. All new employees should also be required to pass this test within a year of the commencement of their employment. In this manner, all staff members of financial sector regulators will be adequately trained within a horizon of three years.”*

2. Compliance measure: The responsibility of implementing this rec-

¹Committee on Financial Sector Reforms, *Hundred small steps, Report of the Committee on Financial Sector Reforms*, Planning Commission of India, Sept. 12, 2008, URL: http://planningcommission.nic.in/reports/genrep/rep_fr/cfsr_all.pdf (visited on Dec. 1, 2013).

²Financial Sector Legislative Reforms Commission, *FSLRC Analysis and Recommendations*, Mar. 2013, URL: http://finmin.nic.in/fslrc/fslrc_report_vol1.pdf.

³High Powered Expert Committee on Making Mumbai an International Financial Centre, *Report of the High Powered Expert Committee on Making Mumbai an International Financial Centre*, Ministry of Finance, Feb. 10, 2007, URL: http://finmin.nic.in/the_ministry/dept_eco_affairs/capital_market_div/mifc/mifcreport.pdf (visited on Dec. 1, 2013).

⁴Working Group on Foreign Investment, *Report of the Working Group on Foreign Investment*, Department of Economic Affairs, Ministry of Finance, July 30, 2010, URL: finmin.nic.in/reports/WGFI.pdf (visited on Dec. 1, 2013).

ommendation lies with **DEA**. In order to implement this recommendation, **DEA** will do the following:

- (a) Build a curriculum for a certification program for the staff of regulators in order to bring them up to date on recent developments in financial regulatory governance, and common principles necessary to harmonise financial sector regulation.
- (b) Build a certification program along with the necessary infrastructure and technology to enable the staff of regulators to take the test.
- (c) Encourage NISM, NIBM and similar institutions to implement the curriculum in their programs.
- (d) Ensure that all regulators get their staff to take the certification test every year, and **DEA** should monitor if thirty-three percent of the regulator's staff has actually cleared the test.

3. Specific questions to be answered:

- (a) Has **DEA** built a curriculum for a certification program for the staff of regulators?
- (b) Has **DEA** designed a certification program along with the necessary infrastructure?
- (c) Has **DEA** made best efforts to encourage institutions like NISM and NIBM to implement the curriculum in their programs?
- (d) Is **DEA** monitoring whether thirty-three percent of the staff of every regulator is clearing the certification program every year?

4. Steps to be taken by **MoF for answering these questions:**

- Check the **MoF**'s website for the information.
- If the information does not exist on the website, this recommendation has not been implemented.
- If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
- Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.

- Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, **MoF** must provide the following:
- A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, **MoF** will be deemed to have complied with recommendation 14.12.2. In any other case, the **MoF** will be deemed to have not complied with the recommendation.

13.3 Recommendation 14.12.3

1. Recommendation:

“All financial agencies need to issue regulations which require 15 per cent of all existing staff of all financial firms to pass the certification test every year. This would ensure that within a horizon of three years, a large swathe of individuals within financial firms would also possess adequate knowledge about the policy and legal environment.”

2. **Compliance measure:** The responsibility of implementing this recommendation lies with the regulators. They will have to pass regulations directing all regulated entities that 15 percent of their staff pass the certification test every year.

3. Specific questions to be answered:

- (a) Does such a regulation exist?
- (b) Does the regulation state that 15 percent of the staff of all regulated entities under their jurisdiction have to take the certification test every year?
- (c) Are regulators monitoring and reporting whether this regulation is being complied with on an annual basis?

4. **Steps to be taken by MoF for answering these questions:**
 - Check the regulator’s website for the information.
 - MoF should not at this stage, request or issue any instruction to the regulator to place the information on its website.
 - If on an analysis of the information available, it is concluded that the specific question has not been answered, the degree of compliance/non-compliance should be identified and steps to ensure compliance should be suggested in the **MIS Compliance Tracker**.
 - Report the exact location of the information on the website, and the degree of compliance/non-compliance with the recommendation in the **MIS Compliance Tracker**.
 - Report the final objective score in a “Yes”/”No” manner in the **MIS Compliance Tracker**.
5. **Non-compliance:** For every answer that scores less than 100 in **MIS Compliance Tracker**, and therefore a “No”, MoF must provide the following:
 - A statement as to why it thinks the answer to the question is a “No”; and
 - Steps needed to be taken to improve compliance.
6. **Final answer:** If the answer to all the questions in the **MIS Compliance Tracker** is a “Yes”, the regulator will be deemed to have complied with recommendation 14.12.3. In any other case, the regulator will be deemed to have not complied with the recommendation.

13.4 Recommendation 14.12.4

1. Recommendation:

“DEA will initiate a joint mechanism through which individuals from all financial agencies will attend workshops and conferences on financial policy and regulation, taking place through the year, to foster capacity building at senior levels. This will partly utilise workshops and conferences which are already taking place, and will partly initiate de novo activities.”

2. **Compliance measure:** The responsibility of implementing this recommendation lies with **DEA**. The implementation of this recommendation can be achieved by implementing recommendation 14.12.1 as detailed in section **13.1**.
3. **Final answer:** the implementation of recommendation 14.12.1 will be used to monitor the implementation of this recommendation. If the answer to all the questions in the **MIS Compliance Tracker** for recommendation 14.12.1 is a “Yes”, the regulator will be deemed to have complied with recommendation 14.12.4. In any other case, the regulator will be deemed to have not complied with the recommendation.

