**FOUNDATION OF INDEPENDENT FINANCIAL ASSOCIATES**
**Formerly known as Foundation of Independent Financial Advisors**

March 7th, 2025

**Mr. Venkat Nageshwar Chalasani,**
**Chief Executive Officer,**
**Association of Mutual Funds in India,**
Unit No. 701, C-Wing, Naman Corporate Link,
Plot Nos. C-31/C-32, "G" Block, Bandra Kurla Complex,
Bandra (East), Mumbai, Maharashtra – 400051.

Dear Sir,

**Subject : Response to your good self's letter bearing number 88/ARN/107/2023-24 dated January 30, 2024.**

**In Re. : Request for revision/modification in the Best Practices Circular of Association of Mutual Fund in India bearing number 135/BP/54/2014-15 dated March 26, 2015.**

**Ref. :**
1. **Best Practices Circular of Association of Mutual Fund in India bearing number 135/BP/54/2014-15 dated March 26, 2015.**
2. **Our Letter dated November 26, 2023.**
3. **Your good self's letter dated January 30, 2024.**
4. **Meeting with your good self held on November 27, 2024.**

We, at Foundation of Independent Financial Associates (hereinafter referred to as **"FIFA"**) are concerned for our members and on their behalf, we would like to address you on the captioned subject, as follows:

1. Vide our letter dated November 26, 2023, we had apprised your good self about our concerns regarding the absolute bar on Upward Revision in the rates of the Upfront or Trailing Commission for Assets under Management (hereinafter referred to as **"AUM"**) existing as on the date of the Best Practices Circular bearing number 135/BP/54/2014-15 dated March 26, 2015 (hereinafter referred to as the **"Best Practices Circular"**). Vide the

said letter we had requested you to review and modify the Best Practices Circular to the effect of removing the stipulations regarding bar on upward revision of the distributor's commission.

2. We are in receipt of your letter dated January 30, 2024 vide which you have responded to our letter dated November 26, 2023 as follows:

   a. The reasons for introducing the best practices through the Best Practices Circular are well documented and remain relevant even today.

   b. The intent and applicability of the Best Practices Circular does not create any differential treatment on its applicability for assets procured pre or post March 26, 2015 (the date of the circular) or April 01, 2015 (date of applicability of the circular). To clarify, while applying the circular (dated March 26, 2015) on transactions from April 01, 2015, Clause 2(e) specifically states *"There shall be no upward revision in any rates of Upfront Commission or Trail Commission for asset under management existing as on the date of the circular."*

   c. The industry practice on payment of trail brokerage has evolved over time in line with changing regulations and guidelines and that the rate of trail on assets already mobilized have remained unchanged despite the significant growth in AUM of the individual funds and the practice of providing trail brokerage on incremental sales basis Total Expense Ratio at a relevant point in time determined by size of the fund, is now well established.

3. We are grateful to your good self to provide us with an opportunity to personally discuss the issues with your good self on November 27, 2024 where the issues regarding the absolute bar on the upward revision of the Distributor Commission paid to Mutual Fund Distributors (hereinafter referred to as **"MFDs"**) by the Asset Management Companies of the Mutual Funds (hereinafter referred to as **"AMCs"**) was discussed amongst other issues/points.

4. Considering the conversation with your good self and in response to your good self's submissions vide your good self's letter dated January 30, 2024, we would like to state as follows:

a. In response to your good self's statement that the *"reason for bringing up the Best Practices Circular has been clearly documented and is still relevant today"*, it needs to be noted that the Best Practices Circular was issued by AMFI in response to the concerns expressed by the Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) about the unhealthy trend of upfront commission payment and up-fronting of trail commission allegedly prevalent at that time with a view to eradicate the practice of commission based mis-selling of Mutual Funds Units to the investor.

b. Here, we would like to draw your attention to the Best Practices Circular and reproduce herein the following for quick reference:

> *Under the auspices of Association of Mutual Funds in India (AMFI), they desired the Industry to come up with guidelines which could be applied uniformly without compromising on the freedom of AMCs to manage their commercials.*

c. From the bare perusal of the above observation in the Best Practices Circular and the alleged basis for issuance of the Best Practices Circular, it remains unclear as to how imposition of an absolute bar on any upward revision of the rate of Distributor Commission paid to the MFDs for the AUM as on April 01, 2015 would attain or aid in attaining the said goal. While on the other hand Clause 2(e) of the Best Practices Circular goes against the very ethos of the Best Practices Circular as it unwarrantedly curtails the commercial freedom of the AMCs and the MFDs to negotiate upon the Distribution Commission paid to MFDs for the assets as on April 01, 2015 and also creating a wide disparity between the Distributor Commission being paid to MFDs for the assets as on April 01, 2015 and assets created post April 01, 2015 leading to widespread churning and militating the very purpose of the Best Practices Circular.

d. In respect of your good self's contention that the Best Practices Circular does not create any differential treatment of Assets as on April 01, 2015 and the assets created post April 01, 2015, it is submitted that the Best Practices Circular itself puts a bar on the upward revision of Distributor Commission for the assets as on April 01, 2015 and still continuing thereafter and the new assets created after April 01, 2015 (on which there is no bar on upward revision of the Distributor Commission). Hence, your good self's contention regarding the same appears to be erroneous.

e. Conversely, if there is no difference in treatment of the assets existing as on April 01, 2015 and the assets created thereafter i.e. apparent absence of intelligible differentia, there is no basis that Clause 2(e) ought to subsist.

f. In respect of your good self's contention that the practice of payment of Distribution Fees on the basis of the AUM/Incremental Sales and applicable Total Expense Ratio is an accepted practice, it is stated that if that is the case, there is all the more a reason for removal of Clause 2(e) of the Best Practices Circular because it goes disregards the positive co-relation between the Total Expense Ratio (based on the AUM of the Scheme) and the Distributor Commission.

g. For the assets created/existing as on 1st April, 2015 and are still continuing, there can be a reduction in the Distribution Commission (due to reduction in Total Expense Ratio) but the AMCs refuse to increase the Distribution Commission when the TER increases citing absolute bar created vide the Best Practices Circular which is inequitable and hence deserves to be removed.

h. For example, an investment is introduced by a MFD prior to April 01, 2015 which has remained invested say till April 31, 2024, the rate of the Trail Commission which will be paid to the MFD from FY 2015-2016 to 2023-2024 would remain capped at the rate prevailing as on April 01, 2015 or it could be reduced by AMC's in case of reduction in TER, while there is no bar on increasing the Total Expense which can be charged by the Mutual Fund Scheme for the same duration (with no corresponding increase in the Distributor Commission) which is actually inequitable. Hence, the Best Practices Circular deserves to be reviewed and modified to remove such inequity.

i. Your contention that "the rate of trail on assets already mobilized have remained unchanged despite the significant growth in AUM of the individual funds trail rates " is in correct. We would also like to point out that there are some old assets on which the rate of trail has been reduced to ZERO. Further, without prejudice to the above, if your good self's submission is considered positively, there would have been no requirement for AMFI to put a bar on upward revision as for the resulting incremental sales of the Units of the Schemes, the Distribution Commission would have automatically come down and hence your good self's submission appears to be erroneous.

j. It is further submitted that SEBI (Mutual Fund) Regulations, 1996 does not provide for an express bar on upward revision of the Distributor Commission and has left the same to be decided by the AMCs and MFDs mutually (subjected to overall bar on the Total Expense) and hence no such bar on the upwards revision of the Distributor Commission for the assets prior to April 01, 2015 or thereafter can be introduced and/or continued through the Best Practices Circular because it is a well-established principle of law that a stipulation which cannot be found in the principle law (i.e. SEBI (Mutual Fund) Regulations, 1996) the same cannot be introduced by a sub-ordinate legislation like Circular, Guidelines or Regulatory Guidance. Hence, the bar on upward revision of trail commission in the Best Practices Circular deserves to be removed.

k. It is further submitted that introduction of such an absolute cap on the Distribution Commission by AMFI further tends to increase mis-selling and Portfolio Churning within the Mutual Fund investors. Due to the disparity in rates of Distribution Commission for assets existing as on April 01, 2015 and the assets created thereafter, MFDs have been advised by Asset management companies to churn investor assets by asking the investors to redeem their investments made prior to April 01, 2015 and to invest the same amount again either in the same Mutual Fund Scheme or some other Mutual Fund Scheme. Hence, such a bar placed by the Best Practices Circular totally militates the purpose and intent of the Best Practices Circular. Hence, the said stipulation deserves to be removed from the Best Practices Circular.

l. Further, in respect of the commercial terms, the introduction Clause 2(e) vide the Best Practices Circular worsens the situation for the Mutual Fund Distributors. It is submitted that initially, the Mutual Fund Distribution Commission were exempt from the Service Tax, but the same was reintroduced in FY 2013-2014 at 14%. Further, with introduction of Goods and Service Tax in 2016 where the indirect tax rates have been raised from 10% to 18%, the Mutual Fund Distributors are working on ever decreasing rates of commission with no possibility of renegotiation or increase in the Distribution Commission due to the Best Practices Circular. Hence, the Best Practices Circular tends to create hostile and unsustainable environment for the Mutual Fund Distributors.

**5.** Considering the above submissions, to the best of our understanding, the circumstances and practices thus prevalent requiring the issuance of Best Practices Circular are no longer existent. Hence, it is our humble submission that the Best Practices Circular needs

reconsideration and the stipulation regarding an absolute bar on upward revision of the rates of Distributor Commission needs to be discarded.

6. We further state that the stipulation against upward revision of the Distributor Commission needs to be removed which would not only protect the investor against the mis-selling as illustrated above and provide an opportunity to the AMCs and MFDs to mutually discuss the remuneration to be paid to the MFDs without compromising on the freedom of the AMCs to manage their commercials and provide a necessary reprieve to the distributors who are presently functioning on ever decreasing margins.

7. Also, AMFI, being an association of the AMCs and by nature being in a position of conflict-of-interest vis a vis the other stakeholder ought not to prescribe such guidelines which clearly are partisan.

8. We hope for a positive consideration of our concerns raised above.

Thanking you for your patience and kind attention.

Warm regards

Dhruv Mehta
Chairman