UNIT 11- P-Notes Norms- Requirement, Significance & Provision

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P-NOTES NORMS

- SEBI recently released a consultation on P-notes planning to further tighten the norms for the issuance of offshore Derivative Instruments (ODIs)/P-Notes.

REQUIREMENT

- Due to the opaqueness of the investment procedure of the P-Notes, it is considered to be a conduit for black money. Therefore its use needs to be restricted only to the genuine users.
- To avoid exposure, quite a few ODI subscribers invest through multiple issuers. Therefore proposal in the new consultation paper on P-Notes would be a step towards curbing their misuse.

BACKGROUND

- About 6% of the total foreign investment in Indian stocks and equity instruments is from P-Notes.
- Once accounting for up to 50% of all foreign investments, P-Note issues have fallen significantly to about a quarter of all ODIs with the steps taken by SEBI till now.
- Last year, SEBI issued instructions (after Supreme Court's orders) on Know Your Customer (KYC) norms for ODI subscribers, transferability of ODIs, reporting of suspicious transactions and periodic review of systems.
- In case such ODIs are transferred, the issuer should give the complete trail of such transfers to SEBI on demand.

PROVISIONS OF THE PAPER

- SEBI has planned to levy a supervisory fee of $1,000 on every foreign portfolio investor (FPI) that issues ODIs or PNs. This fee would have to be paid by SEBI registered FPIs once every three years for each of their P-Notes subscriber.
- The controller has also proposed to prohibit ODIs from being issued against derivatives for speculative purposes. Currently, ODIs are issued against derivatives along with equity and debt.
- SEBI has given time until December 31, 2020, to wind up ODIs issued against derivatives, which are not for evading purpose. It will be mandatory on Foreign Portfolio Investor to ensure that ODI is issued against derivatives which are virtuously for equivocation purpose and not for speculation.

SIGNIFICANCE

- It will discourage the P-Notes subscribers from taking this route and encourage them to directly take registration as a Foreign Portfolio Investor. This would also be a step towards preventing money laundering.
- It would also be useful to avoid any treaty shopping practices and tax avoidance.