



## CONCEPT PAPER ON PROPOSED ALTERNATIVE INVESTMENT FUNDS REGULATION FOR PUBLIC COMMENTS

### A. EXISTING SCENARIO

At present Investment Management Regulation is limited to Mutual Fund Regulation, CIS Regulations, VCF Regulation and Regulation of Portfolio Managers. Mutual Funds and CIS are clearly in the retail segment and are well regulated, the regulation of non-retail segment is not on a comprehensive basis.

### B. WHY COMPREHENSIVE REGULATION FOR PRIVATE POOLS OF CAPITAL/ ALTERNATIVE INVESTMENT FUNDS IS REQUIRED?

1. SEBI (Venture Capital Funds) Regulations were framed by SEBI in 1996 to encourage funding of entrepreneurs' early-stage companies. However, it has been found over the years that VCFs are being used as a vehicle for many other funds such as:

- (i) Private Equity (PE)
- (ii) PIPE (Private Investment in Public Equity)
- (iii) Real Estate

While investment objectives of these funds may have valid economic reasons yet this has resulted in a neglect of the original aim of promoting early stage companies as envisaged under VCF Regulations. Secondly, because the VCFs are populated by Private Equity, PIPE and Real Estate Funds, it is not possible to give targeted concessions to VCFs to promote startup or early stage companies as there is clear possibility that the advantages will be reaped by well established listed companies or other mainstream players. At the same time the investment restrictions on VCFs which operate in unlisted space, are such that PE and PIPE funds finds it restrictive. Further, there are some regulatory concessions needed by PE and PIPE funds and which may not be appropriate for VCFs. For instance, there are requests that they should be allowed to invest in secondary markets as well. Recently there have been requests by various PE Funds registered as VCF to give them exemptions from Take over Regulations and Insider Trading Regulations. To sum up, VCFs are being used as an omnibus investment fund which leaves most of the private investment funds dissatisfied.

2. Registration of VCF is not mandatory under VCF Regulation. Not all players in the VCF or PE industry are registered with SEBI. These unregistered entities are not subject to investment restrictions which are applicable to registered VCFs. Thus registered VCFs seek to enjoy similar opportunities which are exploited by



unregistered funds. To avoid having regulatory gaps and to have level playing field there is a need to have uniform norms for same type of fund or industry.

3. There remains a considerable need for long-term cost effective funding that can be sourced from diverse parts of the private-sector capital markets or private pool of capital such as PE or PIPE funds etc., and that can be translated into meaningful finance for start ups, small and medium business and infrastructure. It is felt that a more comprehensive legal framework is necessary to promote the growth of this market in earnest.
4. There is a need to recognize Alternative Investment Funds (AIF) such as PE or VC etc., as a distinct asset class apart from promoter holdings, creditors and public investors.
5. The patient source of active capital provided by PE or VC etc., plays a very important role in the growth of the corporate sector and they bring a lot of governance and good quality money on the table of investee company. However, recent financial difficulties in western countries have underlined that many AIF strategies are vulnerable to some risks in relation to investors, other market participants and markets and may also serve to spread or amplify risks through the financial systems. The regulator needs to have overall picture of risks posed by such funds. Therefore, it is necessary to establish a framework capable of addressing those concerns.
6. Investors in VCFs, PE etc., are sophisticated and well informed. SEBI acts more as a facilitator with minimal regulation. However, with exponential growth of private fund industry and their systemic importance for stability of financial market, globally private pools of capital are now being subjected to regulation of different degree by various jurisdictions. Some of the instances have been illustrated in para 'C' under heading "Global Experience". The alternate asset industry needs to be regulated for fair and efficient functioning of financial market.

#### **C. GLOBAL EXPERIENCE**

1. In most of advanced economies, multiple vehicles exist to provide various avenues for the institutional investors to invest based on their investment needs including hedge funds, private equity funds, commodity funds, real estate funds, infrastructure funds, investment trusts, etc. Investors in these funds are largely institutional, high net worth individuals and corporates. These investors while entrusting their funds to the fund managers seeks commitment from such fund manager by way skin in the game. Such arrangement leads to conflict as the fund manager is an investor as well as a manager. Therefore, a framework is required to address such conflicts.



2. The G-30 Report recommends that —“Managers of private pools of capital that employ substantial borrowed funds should be required to register with an appropriate national regulator (...). The regulator of such managers should have authority to require periodic regulatory reports and public disclosures of appropriate information regarding the size, investment style, borrowing, and performance of the funds under management”. The G-30 recommendations also deal with the —moral hazard issue identified by the Financial Stability Forum (now known as Financial Stability Board) in 2000 by stating that —Since introduction of even a modest system of registration and regulation can create a false impression of lower investment risk, disclosure, and suitability standards will have to be reevaluated. The G-30 also considers that —for funds above a size judged to be potentially systemically significant; the regulator should have authority to establish appropriate standards for capital, liquidity, and risk management.
  
3. The European Parliament and Council has come out with a proposal for a Directive on Alternative Investment Fund Manager (AIFM)<sup>1</sup> such as Hedge Funds, Private Equity Managers, etc. The salient features of the directives are:
  - (i) A legally binding authorization and supervisory regime for all AIFM managing AIF in the European Union, irrespective of the legal domicile of the AIF managed except for AIFM managing portfolios of AIF with less than €100 million of assets or of less than €500 million, in case of AIFM managing only AIF which are not leveraged and which do not grant investors redemption rights during a period of five years following the date of constitution of each AIF.
  - (ii) To operate in the European Union, all AIFM will be required to obtain authorization from the competent authority of their home Member State.
  - (iii) AIFM to provide to their investors, initially and on an ongoing basis, a clear description of the investment policy, including descriptions of the type of assets and the use of leverage; redemption policy in normal and exceptional circumstances; valuation, custody, administration and risk management procedures; and fees, charges and expenses associated with the investment.
  - (iv) Disclosures and reporting to the competent authority on a regular basis.
  - (v) Power of competent authority to set leverage limits for AIF to ensure the stability and integrity of the financial system.

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1 AIFM includes all fund managers other than those covered under the Directives for the Undertakings for Collective Investments in Transferable Securities (UCITS).



- (vi) AIFM to issue annual disclosure on the investment strategy and objectives of its fund when acquiring control of companies and general disclosures about the performance of the portfolio company following acquisition of control.
- (vii) An AIFM authorized in its home Member State will be entitled to market its funds to professional investors on the territory of any Member State. Member States may allow for marketing to retail investors within their territory and may apply additional regulatory safeguards for this purpose. Such requirements shall not discriminate according to the domicile of the AIFM.
- (viii) To facilitate international cooperation in macro-prudential regulations, the competent authorities of the home Member State will be required to transmit relevant macro-prudential data, in a suitably aggregated format, to public authorities in other Member States.

Under the new rules, AIFs will be required to hold more capital and make more disclosures and non-European hedge funds will have to gain a "passport" to operate within the EU.

4. Under the Private Fund Investment Advisers Registration Act of 2010 (The Act), enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 2010 (C P Act 2010), Investment Advisers to private funds including hedge funds and private equity funds are required to register with the SEC unless they qualify for one of the exemptions provided such as advisers to Venture Capital Funds, smaller advisers (advising to private funds with AUM less than USD 150 million), foreign private fund advisers, family offices etc. The Act eliminates the so called private adviser exemption for advisers with fewer than 15 clients, upon which most private fund managers relied to avoid registration under the Investment Advisers Act of 1940. Now all hedge fund and private equity fund advisers that are required to register with the SEC must do so before July 21, 2011, and must be fully compliant with requirements under the Investment Advisers Act of 1940. Such advisers will be required to file reports containing such information as SEC deem necessary to protect investors or for the assessment of systemic risk. Even if exempt from SEC registration, (such as VCFs or private fund less than 150 million), they will be subject to record-keeping and reporting obligations. They also remain subject to anti-fraud rules and thus to the SEC's enforcement authority. The Volcker Rule made under C P Act, 2010 prohibits a banking entity from acquiring or sponsoring any hedge fund or private equity fund.
5. The IOSCO Consultation Report on Hedge Funds Oversight (June 2009), the IOSCO Task Force suggests that progress towards a consistent and equivalent approach of



regulators to hedge fund managers should be a high priority. The Task Force recommends that regulatory oversight for hedge funds should be risk-based, focused particularly on the systemically important and/or higher risk hedge fund managers.

Accordingly, in the updated list of 38 IOSCO objectives and principles of regulations, IOSCO in this principle 28 suggests effective oversight of hedge funds. Although some jurisdictions may regulate hedge funds as CIS, hedge funds should fully comply with these principles:

- (i) Hedge funds and/or hedge fund managers/advisers should be subject to mandatory registration.
  - (ii) Hedge fund managers/advisers which are required to register should also be subjected to appropriate ongoing regulatory requirements relating to organizational and operational standards, conflicts of interest and other conduct of business rules, disclosure to investors and prudential regulation.
  - (iii) Prime brokers and banks which provide funding to hedge funds should be subjected to mandatory registration/regulation and supervision. They should have in place appropriate risk management systems and controls to monitor their counterparty credit risk exposures to hedge funds.
  - (iv) Hedge fund managers/advisers and prime brokers should provide to the relevant Regulator information for systemic risk purposes (including the identification, analysis and mitigation of systemic risks).
  - (v) Regulators should encourage and take account of the development, implementation and convergence of industry good practices, where appropriate.
  - (vi) Regulators should have the authority to co-operate and share information, where appropriate, with each other, in order to facilitate efficient and effective oversight of globally active hedge fund managers/advisers and/or hedge funds and to help identify systemic risks, market integrity and other risks arising from the activities or exposures of hedge funds with a view to mitigating such risks across borders.
6. IOSCO on October 2010 published a report on Private Equity Conflicts of Interests. This report outline principles against which both the industry and regulators can assess the quality of mitigation of conflicts of interests by private equity firms. In these funds, one of the key risks identified by IOSCO is the conflicts of interest among the parties involved in private equity sponsored transactions which can pose risks to fund investors or the efficient functioning of financial markets.



IOSCO has identified key mitigating factors which may serve to minimise the occurrence of conflicts of interest between the private equity firm and its fund investor, viz.

- (i) Compensation arrangement on the basis of performance related remuneration plus a cost of fund management.
- (ii) Negotiated contractual agreement with each individual investors stipulating the material terms and conditions of the fund including the fund's structure, its investment strategy, the allocation of fees and costs, allocation of investment opportunities, any firm co-investment arrangements, the allocation and distribution of profits, the content and frequency of investors reporting; key man and devotion of time provisions, mechanisms for conflict and dispute resolution, etc.
- (iii) Investors should be disclosed of new investment activity, a break down both fund expenses/ income and profit/loss, and a review of the performance of individual portfolio assets, etc. Such disclosure should be clear, fair and not misleading.
- (iv) Contractual requirement for each fund to maintain an investor advisory committee, comprising a small sample of fund investors. The committees main function is to review the firm's approach towards resolving all material fund related conflicts of interest before the firm takes any proposed course of action. The committee should act as a forum for conflict management rather than investment decision making.
- (v) Establishment of robust and effective information barriers between potentially conflicted business units.

7. The Institutional Limited Partners Association (ILPA) has developed Private Equity principles with the goal of improving PE industry for benefit of all its participants. These principles seek to provide for alignment of interest, governance and transparency practices for PE industry.

**D. REGULATORY PHILOSOPHY FOR THE NEW STRUCTURE**

- (i) SEBI proposes to create a structure where regulatory framework is available for all shades of private pool of capital or investment vehicles so that such funds are channelized in the desired space in a regulated manner without posing systemic risk. At one end of the spectrum, there will be Mutual Funds or CIS which are for retail investors with prudential regulation seeking to regulate all kinds of risks. On the other end there are private pools of capital of institutions or sophisticated



- investors who entrust pooled funds to a manager who himself needs to have own funds forming part of the corpus. Such pools of capital could also potentially employ leverage. At this end, regulation does not try to regulate the business risks but would like to provide some minimum ground rules for disclosures, and governance practices to minimize conflict. In between there would be various specialized funds where risks are graded and investment portfolios designed to suit specific regulatory/other incentives.
- (ii) Making clear distinction among the various types of private pooled investment vehicles of institutional or sophisticated investors will allow Government/ Regulator to tailor make concessions/relaxations that may be desirable for individual kinds of funds such as VCF or SME funds, Social Venture Funds etc. These concessions/relaxations will be tied to investment restrictions for special kinds of funds and funds like private equity, PIPE or strategic fund may not be allowed to avail such concessions.
  - (iii) The proposal intends to regulate private pools of capital where institutions or High Networth Investors (HNIs) invest as Alternative Investment Funds. While institutions and HNIs are expected to be savvy investors and need not be protected from market and credit risk, there is need for a framework to deter from fraud, unfair trade practices and minimize conflicts of interest. Mitigation of potential conflict and deterrence to fraud etc., will be addressed through disclosure, incentive structures, reporting requirement and legal agreements.
  - (iv) The alternate investment vehicle such as PE fund is raised privately rather than through public funding. The funds are for long term, draw down of funds from investors is staggered, based on illiquid structure and exit is permitted on expiration of fund term. The duties owed by a fund manager to the fund investors will be largely shaped by fund documents that are subject of negotiation between the fund and its investor. Dispute if any, would preferably be settled through mediation, conciliation or arbitration etc.

**E. PROPOSED ALTERNATIVE FUND REGULATION AND OTHER RELATED FUNDS / REGULATION**

(i) **AIF and PMS Regulation**

**PMS**

There are substantial number (266) of Portfolio Managers registered with SEBI who in principle offer tailor made boutique investment management service to their clients. Even after SEBI has made it mandatory for portfolio managers to segregate client accounts, the services provided by many portfolio managers are standardized portfolio strategies where assets of clients are handled without customization, leading to proxy fund



management through this route. The low minimum investment amount of Rs.5 lacs makes these products accessible to retail investors without the protection which are available to retail investor under the Mutual Fund framework. To the extent that the services under this route resemble fund management instead of customized services, there is need to recognize and regulate them as private pool of capital.

Portfolio Managers who continue to provide individualized / personalized portfolio management services to clients shall continue to be registered as individual portfolio managers with higher minimum investment amount of, say, Rs. 25 lakhs. They will be required to segregate the clients' funds and prohibited to pool the fund / securities of clients.

All portfolio managers who seek to pool assets such as for investing in unlisted securities should be required to register as an alternative investment fund. Portfolio Managers who provide strategies falling into one or other type of Alternative Funds described above would be permitted to operate as Alternative Investment Funds.

If portfolio managers intend not to deal in funds and only give advice, then they would be required to register themselves as Investment Adviser under a separate regulation.

Thus portfolio managers who seek to provide customized service on one to one basis without pooling fund or securities of clients will continue to be governed by existing Portfolio Manager Regulations and pooling of private capital or providing strategies falling under alternative investment funds would be covered under the AIF Regulation.

(ii) **AIF and VCF Regulation**

The existing VCF Regulations are proposed to be subsumed in AIF Regulation as the VCFs would be one kind of AIF. The existing investment criterion for VCF is proposed to be retained substantially. After the commencement of AIF Regulation, the VCF Regulation would stand repealed and VCFs would be governed by AIF Regulation.

(iii) **AIF and FVCI Regulation**

Foreign Venture Capital Investor (FVCI) regime was introduced in 2000, to incentivize foreign venture capital and private equity investors who were otherwise investing under the FDI route to invest through the FVCI route so that such investment is tracked by SEBI and also to attract more capital from such players into the domestic market. As a part of this incentive, certain



benefits were made available to them as compared to FDI investors. Such benefits include free entry and exit pricing, exemption from the applicability of the provisions under the takeover code in the event of transfer of shares from FVCIs to the promoters, FVCI being accorded Qualified Institutional Buyer status, exemption of lock-in post IPO (subject to certain conditions), etc. In view of the above benefits, several investors in recent times are considering investing in India under the FVCI route as compared to the FDI route.

FVCI are required to make 66.67% in unlisted equity share or equity linked instruments of unlisted company. FVCI can invest its 100% investible funds in SEBI registered Venture Capital Fund (VCF). FVCI Regulation is proposed to be retained and not subsumed in AIF Regulation. However, FVCI Regulation may be amended to allow FVCI to invest in different AIF such as SME Fund, Social Venture Funds in addition to domestic VCFs.

(iv) **Social Venture Funds (SVFs)**

The report of the sub-committee of the Central Board of Directors of Reserve Bank of India to study issues and concerns in the MFI sector by Shri Y.H. Malegam (“Malegam Committee”) has recommended creation of Social Venture Funds (SVF) in consultation with SEBI. It has been suggested that SVF will be targeted towards “Social Investors” who are willing to accept “muted” returns, say 10% to 12%. This fund could then invest in Micro Finance Institution (MFIs) which satisfy social performance norms laid down by the fund and measured in accordance with internationally recognized measurement tools. Therefore, a framework for SVF as one of the AIF has been proposed in the draft regulation.

(v) **AIF and Fund Managers**

The Fund Managers or Investment Managers of Alternative Investment Funds are proposed to be regulated under a framework for regulation of Investment Advisors. Such a framework shall be proposed to regulate the advisory functions being performed by various types of fund managers such as fund or asset managers to MF or wealth managers etc.

**F. SEBI (ALTERNATIVE INVESTMENT FUNDS) REGULATIONS**

1. To create regulations for alternative investment funds under the title SEBI (Alternative Investment Fund) Regulations which would register and regulate the formation of investment funds which raises capital from a number of High Net Worth investors with a view to investing in accordance with a defined investment policy for the benefit of those investors, inter-alia in the following categories:



- (i) Venture Capital Fund
- (ii) PIPE Funds
- (iii) Private Equity Fund
- (iv) Debt Funds
- (v) Infrastructure Equity Fund
- (vi) Real Estate Fund
- (vii) SME Fund
- (viii) Social Venture Funds
- (ix) Strategy Fund (Residual Category, including all varieties of funds such as hedge funds, if any).

## **2. ELIGIBILITY AND REGISTRATION**

- (1) It would be mandatory for all types of private pools of capital or investment funds to seek registration with SEBI.
- (2) The funds could be formed as companies, trusts or body corporate including LLP structure.
- (3) The regulations would require that the fund manager/ asset management company or trustees of the fund be specified, and change of such entities be reported to the regulator.
- (4) At the time of application, the fund would specify the category under which it is seeking registration, the targeted size of the proposed fund and its life cycle and the target investor.

## **3. FUND STRUCTURE**

- (1) Funds shall be close ended.
- (2) Fund size can be revised upward up to XX% giving SEBI suitable reasons. Minimum investment amount would be specified as 0.1% of fund size subject to a minimum floor of Rs.1crore. (The minimum investment criterion would



prevent retail investors straying into funds and the granularity would ensure a maximum number of investors as 1000 precluding the possibility that some funds might disguise themselves as private pools while approaching a large number of retail investors.) In case of an AIF constituted as company or LLP the number of shareholders or partners shall not exceed fifty. The size of units issued will not be less than Rs.10 lakh.

(3) Funds may be raised only through private placement through information memorandum.

#### **4. SETTING UP OF FUND**

- (i) The Fund may be set up as a trust settled by a sponsor or as an LLP with designated partners. The report of Committee on Technology Innovation and Venture Capital by Planning Commission has recommended to permit also LLP structure for Venture Capital Funds.
- (ii) For obtaining registration with SEBI, the fund would:-
  - a. Specify its purpose and strategy
  - b. Specify proposed size of fund
  - c. Determine horizon of the fund, and duration for winding up
  - d. Draw up the draw down schedule.
- (v) SEBI registration would be obtained for each type of fund scheme as per the regulation.
- (vi) Investors would be sought who are interested in investing in such funds for a given horizon for a given size of commitment.
- (viii) Investments would be made as per the objectives of the fund.
- (ix) At the horizon, winding down of the fund would be started. Winding down of funds would have to be completed within the duration promised. Method of distribution would be stated in the information memorandum. If any of the investments remain un-liquidated at the end of the period, they would be taken up by the Designated Partners or Sponsors as the case may be.

#### **5. INVESTMENT RESTRICTIONS**

The investment restrictions on different types of AIFs would be specified separately for each category of fund, as these would be the main differentiating criteria between the different types of funds. For instance, In case of VCFs, the investment restrictions and obligations which are presently applicable the VCF regulations would be specified, with some additional restrictions to ensure that funds flow to



early stage ventures only. For other types of funds, the investment restrictions would be on the lines given below:

- a. In the case of PIPE funds, investments would be restricted to shares of small sized listed companies which are not in any of the market indices. PIPE funds may be allowed access to non-public information while carrying out due diligence for PIPE transactions under a confidentiality agreement with restriction in dealing in securities for a particular time frame.
- b. In PE funds there would be mainly in unlisted companies or companies proposed to be listed.
- c. For debt funds, the entire investment would be made in unlisted debt instruments. There would be, however, facility of converting debt into equity in case of non-fulfillment of covenants.
- d. For infrastructure equity funds, minimum 2/3rd of the investment would be in equity of infrastructure projects/companies.
- e. For Real Estate Funds, investment could be in Real Estate Projects or shares in the SPVs undertaking Real Estate Projects.
- f. For strategy funds, the fund would be guided by the strategy it specifies at the time of registration with no other restrictions. Any fund operating as Hedge Fund shall be required to be registered as Strategy Fund under AIF regulation.
- g. For Social Venture Funds will be targeted towards social investors who are willing to accept muted returns. Investments would be made primarily in the social enterprises such as micro finance sector.
- h. SME funds would be for investing in unlisted entities in the SMEs in manufacturing services sector as also businesses providing infrastructure or other support to SMEs or SME companies which are listed or proposed to be listed in SME exchange or SME segment of RSE.

## **6. CONCESSIONS/ EXEMPTIONS FOR AIF**

1. Due diligence done by funds prior to investing in listed companies would not attract provisions of SEBI Insider Trading Regulations.
2. AIFs such as PIPE funds or SME funds or VCFs would be considered as QIBs for the purpose of QIPs under the ICDR Regulations
3. Investments in NBFCs which are Core Investment Companies, Asset Finance Companies, Infrastructure Finance Companies or companies engaged in Micro Finance activities would be permitted for all types of AIFs (other than strategy funds).
4. The requirement of lock-in period of one year for pre-IPO investments would not be applicable in respect of investments made by PE Funds, SVF and SME Funds on the same lines as for VCFs.



## 7. CONDITIONS FOR OPERATING AS AIF

The regulations would provide for, inter alia, the following:

- (i) There would be mandatory registration of all private pools of funds / schemes.
- (ii) Adequate disclosures at the time of fund raising through an information memorandum and continuous disclosures to investors of the fund at periodic intervals as provided in contractual agreement. The relationship between the investor and the fund would be governed by the contractual agreement between them. Standard disclosure documents would be provided by the respective industry associations. Any departure from the documents will be required to be highlighted.
- (iii) Contractual agreement with investors would stipulate the material terms and conditions of the fund including the fund's structure, its investment strategy, the allocation of fees and costs, allocation of investment opportunities, any firm co-investment arrangements, the allocation and distribution of profits, the content and frequency of investors reporting; mechanisms for conflict and dispute resolution, etc.
- (iv) Any alteration to the fund strategy shall be made with the consent of at least 75% of unit holders.
- (v) Compensation arrangement on the basis of performance related remuneration plus a cost of fund management. Related disclosures will be on the lines of present PMS.
- (vi) Responsibilities of the fund manager/ AMC / designated partners or trustees shall be clearly defined.
- (vii) Identification of conflicts of interest and establishment of mechanism for managing these conflicts of interest.
- (viii) The AIF shall pool the money from HNI, institutional investors or corporates through private placement and shall not solicit money from retail investors. The minimum contribution from the investors will be Rs.1 crore or such higher amount as may be specified for a particular type of fund.
- (ix) The investors may be locked in the fund for a minimum period of three years or such higher period depending upon nature and tenure of fund and transfer of units of funds may be allowed after lock-in period and trading of units of funds to be limited to amongst institutional / HNI investors.



- (x) Units may not be transferable immediately or only after lock-in period amongst institutional/HNI investors which may be listed after lock-in period or after specific duration at the choice of the funds.
- (xi) Enabling provisions for issuing of guidelines/ circulars for each type of fund containing investment restriction, minimum corpus, minimum contribution, period of lock-in etc.

**G. DRAFT AIF REGULATIONS FOR PUBLIC COMMENTS**

1. In the light of the above background SEBI proposes to frame SEBI (AIF) Regulation 2011, draft of which is enclosed. Public comments are invited on the draft regulation. Comments may be forwarded by email to Ms. Maninder Cheema, Deputy General Manager ([maninderc@sebi.gov.in](mailto:maninderc@sebi.gov.in)) by **August 30, 2011**.
2. Comments should be given in the following format:

Name of entity/ person/ intermediary			
Sr. No.	Draft AIF Regulation /sub regulation alongwith no. of the draft regulation	Proposed/ suggested changes	Rationale

**Issued on: August 01, 2011**



Annexure

**DRAFT - INDICATIVE REGULATIONS**

**SECURITIES AND EXCHANGE BOARD OF INDIA  
(Alternative Investment Funds) Regulations, 2011**

S.O. ....(E). In exercise of the powers conferred by sub-section (1) of Section 30 read with clause (c) of sub section (2) and sub section 1(b) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India hereby makes the following guidelines namely:-

**CHAPTER I  
PRELIMINARY**

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|-------------------------------------|---|
| <b>Short title and commencement</b> | <b>1.</b> (1) These regulations may be called the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2011.<br><br>(2) They shall come into force on such date as may be specified by the Board by notification in the Official Gazette.  |
| <b>Definitions</b>                  | <b>2.</b> (1) In these regulations, unless the context otherwise requires,<br><br>(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992).<br>(b) 'Alternative Investment Funds (AIF)' means pooling or raising of private capital from institutional or High Net Worth Investors with a view to investing it in accordance with a defined investment policy for benefit of those investors and includes private pool of capital such as private equity funds, Venture Capital Fund, PIPE Funds, Infrastructure Debt Fund, Real Estate Funds, Social Venture Fund, Strategic Funds, SME Fund etc. such other similar funds as may be specified by Board, presently not covered under the SEBI (Mutual Funds) Regulations, 1996, and SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of SEBI to regulate fund management activities.<br>(c) "Board" means the Securities and Exchange Board of India established under section 3 of the Act.<br>(d) "Certificate" means a certificate of registration granted by the Board under regulation 7. |



- (e) High Networth investor means individuals or corporate or any other legal entity located in India or overseas who invest in AIF for a value of not less than one crore rupees.
- (f) “Debt Fund” means a private pooled investment vehicle from institutional investors or High Networth investors for making investments primarily in debt instruments of unlisted companies.
- (g) “Manager” means a fund manager or asset management company of AIF.
- (h) “Private Equity Fund” means pooled funds raised privately from institutional or High Net worth Investor for making investments primarily in various unlisted equity or unlisted debt securities of companies requiring medium to long term capital to develop and grow.
- (i) “PIPE fund” means private pooled investment vehicle consisting capital from institutional or High Net worth Investors which primarily invests in shares of smaller sized listed companies who are not able to obtain funding through other sources.
- (j) “Real Estate Fund” means a private pooled investment vehicle from institutional or High Net Worth investors for investing in Real Estate projects or in the SPVs undertaking Real Estate Projects.
- (k) “SME Funds” means a private pooled investment vehicle from institutional, or High Net worth Investors used for making investments primarily in unlisted entities in the small and medium enterprises (SME) in manufacturing service sectors, as also businesses providing infrastructure or other support to SMEs or those SMEs which are listed or proposed to be listed in SME exchange or SME segment of an exchange.
- (l) “Strategy Fund” means all those private investment fund including any entity operating as hedge fund, displaying any one or a combination of some of the following characteristics:
  - pooling of capital from institutional or High Net Worth Investors for investment in securities, derivatives and structured products;
  - more diverse risks or complex underlying products are involved.
- (m) “Venture Capital Fund” means a private pooled investment vehicle from institutional or high net worth investors for providing equity seed-capital to start-up or new ventures or early-stage or to young or emerging





companies primarily involved in new or unproven products or new or unproven technology through undertakings that have not been publicly listed.

(n) "Social Venture Fund" means funds targeted towards investors who are willing to accept muted returns and invest in social ventures such as MFIs which satisfy social performance norms laid down by the fund.

(2) Words and expressions not defined in these Regulations, but defined in or under the Act or the Securities Contracts (Regulation) Act, 1956 or the Companies Act, 1956, or any statutory modification or re-enactment thereof, shall have the same meaning as have been assigned to them by or under those enactments.

### Scope

3. All Alternative Investment Funds in securities market, irrespective of their legal domicile which collects its fund from institutional or high net worth investors in India or the manager of such fund who manages the fund for investments in India, shall be bound by these regulations and be subject to registration and oversight of the Board.

## CHAPTER II

### REGISTRATION OF ALTERNATIVE INVESTMENT FUNDS

#### Registration of Alternative Investment Funds (AIF)

4. (1) On and from the commencement of these regulations, no entity shall pool and manage any private pool of capital from institutional or High Net Worth investors for investing in securities or act as an Alternative Investment Fund or any of such fund as specified under Sub Regulation (2) unless it has obtained a certificate of registration from the Board:

Provided that an Alternative Investment Fund acting as such before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for registration under sub-regulation (2) within the said period of six months, till the disposal of such application.

(2) The funds already registered as VCF under SEBI (VCF) Regulation, 1996 shall continue to be regulated by the said regulations till the existing fund or scheme managed by the fund is wound up.



- (3) An application for grant of certificate shall be made in the prescribed form alongwith the application fee for any of the following categories in such format as may be specified by the Board.
  - a. Venture Capital Fund
  - b. PIPE Fund
  - c. Private Equity Fund
  - d. Infrastructure Equity Fund
  - e. Debt Fund
  - f. Real Estate Fund
  - g. SME Fund
  - h. Social Venture Fund
  - i. Strategy Fund
- (4) The Board shall take into account requirements as specified in regulation 5, 6, 7 in chapter III and IV for the purpose of considering grant of registration for a specific category.
- (5) Without prejudice to the powers of the Board to take any action under the Act or regulations made there under, the certificate of registration and its renewal shall be valid for a period of three years or tenure of fund from the date of its issue to the applicant.

- Eligibility Criteria**
5. (1) For the purpose of the grant of a certificate to an applicant, to establish an Alternative Investment Fund in a category of fund as specified in sub-regulation (2) of Regulation 4, the Board shall consider the following conditions for eligibility, namely:-
    - a. whether Alternative Investment Fund will be constituted in form of trust or as limited liability partnership or company;
    - b. whether the sponsor or fund manager or Asset Management Company of AIF has relevant experience in managing private pools of capital and has managers with sufficient experience in fund or asset or wealth and portfolio management of securities or other financial assets;
    - c. whether the sponsor or fund manager of AIF has a track record, professional competence, financial soundness, experience, general reputation of fairness and integrity.



- d. whether the applicant is an investment company, investment trust, investment partnership; or
- e. whether the sponsor or fund manager of AIF is an asset management company, investment manager or investment management company or any other investment vehicle incorporated in India;
- f. the applicant or sponsor or manager has not been refused a certificate by the Board.
- g. whether the applicant or sponsor manager is a fit and proper person.

(2) For the purposes of determining whether an applicant or AIF is a fit and proper person the Board may take into account the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

(3) For determining the nature or category of the fund, the Board shall take into consideration the substance and not the nomenclature given by the applicant and the applicant shall be required to re-submit the application for appropriate category as specified by the Board failing which the application shall be liable to be rejected.

**Furnishing of information, clarification, etc.**

6. (1) The Board may require the applicant to furnish such further information or clarifications regarding the nature of the fund or fund management activities and matter connected thereto to consider the application for grant of a certificate.
- (2) The applicant or, its principal officer or the sponsor shall, if so required, appear before the Board for personal representation.

**Consideration of application**

7. (1) The Board, while considering application for registration of an AIF, shall take into account all matters relating to investment objective of the fund, the target investors, size of the fund, investment style or strategy etc., and in particular the following, namely, whether the sponsor or fund manager of AIF:
- (a) is eligible by professional qualification of the managers of the AIF;
  - (b) has the necessary infrastructure like adequate office space, and man power to effectively discharge his



- activities;
- (c) has any past experience in the business of buying, selling or dealing in securities or managing assets.
- (d) is a fit and proper person;
- (e) satisfies the eligibility criteria specified in sub-regulation (1) of Regulation 5

(2) Board may grant certificate for any specific category of AIF, if it is satisfied that the applicant fulfill the requirements as specified in the regulations and has paid registration fee as specified in the Schedule and registration can be granted with such condition as may be deemed appropriate.

**Procedure where registration is refused**

8. (1) Where the Board is of the prima facie opinion that a certificate ought not to be granted to the applicant, it would afford an opportunity of hearing to the applicant before taking a final decision.
- (2) Where an application for a certificate is rejected by the Board, the order of rejection shall be communicated to the applicant as soon as may be.
- (3) Where an application for a certificate is rejected by the Board, the applicant shall forthwith cease to act as an AIF, provided that nothing contained in this regulation shall affect the liability of the applicant towards its existing investors under law or agreement.

**CHAPTER III**

**INVESTMENT CONDITIONS AND RESTRICTIONS**

**Investment Strategy**

9. (1) The AIF shall state investment strategy, investment purpose and business model in its information memorandum to the investors.
- (2) Any alteration to the fund strategy can be made with the consent of atleast 75% of unit holders.

**Investment in Alternative Investment Fund**

10. (1) The AIF shall normally fulfill the conditions as specified hereunder unless a separate requirement has been specified for specific category of fund by the Board:
- (a) The minimum size of the Fund shall be Rs. 20 crore.
  - (b) Fund size shall be specified at the time of launch of the



Fund. However, it may be revised upward up to 25% after giving the Board suitable reasons.

- (c) Minimum investment amount shall be 0.1% of fund size subject to a minimum amount of Rs.1 crore.
- (d) The sponsor of the Fund (if in the form of a trust) or the Designated Partner (if in the form LLP), or directors (if in the form of a company) shall contribute from their own account an amount of investment equal to atleast 5% of the Fund and this shall be locked in till the redemption by last investor in the fund.
- (e) The sponsor or the Designated Partner (or directors) shall disclose its investment in the fund to the investors;
- (f) AIF shall not solicit or collect money or fund from public or any retail investors through issue of prospectus or offer documents or advertisement;
- (g) AIF can solicit private pool of fund or money from the institutional, professional or High Networth investors through private placement by issue of information memorandum;
- (h) The number of shareholders or partners in AIF constituted as company or LLP shall be limited to fifty.
- (i) The investors in AIF may have no redemption rights exercisable for a specified period from the date of the initial investment in accordance with the investment policy of the fund.
- (j) AIF or managers shall not engage in selling individual assets of investee company for making a profit.
- (k) The manner of winding up of the fund shall be specified in the information memorandum.

- (2) Notwithstanding the conditions as specified in sub-regulation (1), the Board may specify different requirements or criteria for each category of AIFs.

- Term of the Fund**      **11.** (1) The funds shall be close ended and the duration of fund shall be determined at the time of registration.
- (2) The tenure if the fund shall be minimum for a period of 5 years.
  - (3) Extension of the tenure of the fund may be permitted upto 2 years only at a time and to be approved by a 75% of the beneficiary or the unit holders.
  - (4) In the absence of consent of unit holders, the AIF shall fully liquidate the fund within a one year period following expiration of the fund term.



- (5) If any of the investments remain unliquidated at the end of tenure of the fund, the sponsor, manager or designated partner shall be liable to take up such investments.

**Schemes**

12. Each fund shall be a stand alone entity and no further schemes can be launched under one registration.

**General  
Investment  
Conditions and  
Restrictions**

13. (1) (a) The AIF shall invest in securities or such other instruments as may be specified for each type of fund by the Board;
- (b) Board may impose appropriate restriction on use of fund for speculative or highly leveraged activities by particular category of AIF to ensure stability and integrity of the market;
- (c) Board may impose appropriate restriction on investment by AIF in complex structured products without the consent of the investor;
- (d) Board may specify criteria for charging performance fee of the managers of AIF;
- (e) Any significant change in the investment strategy or key investment team of the fund shall allow the beneficiaries to reconsider and reaffirm positively their decision to commit.
- (f) AIF shall not invest more than 25% corpus of the fund in one investee company.
- (g) AIF shall not invest in (i) NBFC (excluding Infrastructure Finance Company, Asset Finance Company, Core Investment Company or companies engaged in microfinance activity in case AIF is not a strategy fund), (ii) Gold Financing (excluding gold financing for jewellery) (iii) Activities not permitted and under Industrial Policy of Government of India (iv) any other activity which may be specified by the Board.
- (2) An AIF which has been granted registration under a particular category cannot change its category subsequent to registration.

**Commitment of  
Manager/ Sponsor  
/Designated  
partner**

14. (1) The manager or sponsor or designated partner shall have an interest not less than 5% of the fund which should be contributed by them and not through the waiver of management fees.
- (2) The manager or sponsor or designated partner shall be restricted from transferring their real or economic



interest in AIF in order to ensure continuing alignment with the AIF.

- (3) The manager, sponsor or designated partner shall not co-invest in select underlying deals but rather the entire equity interest shall be via the pooled fund vehicle.
- (4) Key-persons shall devote substantially all their business time to the fund.
- (5) Any fees generated by an affiliate of the manager, sponsor or designated partner such as an advisory or in-house consultancy, whether charged to the Fund or an underlying portfolio company, shall be disclosed to the investors.

#### **CHAPTER IV**

#### **INVESTMENT CONDITIONS IN RESPECT OF DIFFERENT CATEGORY OF FUNDS**

**Conditions for all AIFs**      15. (1) The provision of Chapter III and V shall be applicable mutatis mutandis to all categories of fund specified in this chapter.

(2) The Board may specify additional detailed guidelines relating to investment restrictions, disclosure requirements, reporting requirements and any other relevant issues for each type of fund, as may be required.

**Investment Conditions for Venture Capital Funds**      16. (1) The objective of a Venture Capital Fund (VCF) shall be to promote new ventures using new technology or with innovative business ideas at early stage or start up stage primarily through acquisition of equity seed capital or minority stake.

(2) The total investment in the venture capital fund shall not be more than Rs. 250 crore.

(3) VCF shall not invest in any company that is promoted, directly or indirectly by any of the top 500 listed companies by market capitalization or by their promoters.

(4) At least 66.66% of the Investment shall be made in the unlisted equity shares of the investee company.

(5) Not more than 33.33% of the fund can be invested (i) in the unlisted debt or debt instruments of the investee company where equity investment has been made; (ii) Preferential allotment of equity shares of a listed company subject to lock-in-period of one year; (iii) The equity shares or equity linked instruments of financially weak company or a sick



industrial company whose shares are listed.

- (6) The fund shall not subscribe to warrants of the investee company.

**Investment  
Conditions for  
PIPE Funds**

17. (1) PIPE fund shall invest in shares of small sized listed companies which are not part of any market indices in exchanges having nationwide terminals.
- (2) At least 66.66% of the Investment shall be made in equity shares of such investee company.
- (3) Not more than 33.33% of the fund shall be invested in the debt or debt instruments of such companies where equity investment has been made.
- (4) Notwithstanding anything contained in SEBI (Prohibition of Insider Trading) Regulations, 1992, a PIPE fund may acquire securities of investee company and may be given access to non-public information subject to following conditions;
- (i) Access to non-public information is given only for the purpose of carrying due diligence for PIPE transactions under a confidentiality agreement,
- (ii) The PIPE fund shall be prohibited from selling or dealing in securities of investee company for a period of five years,
- (iii) The investee company and the PIPE fund shall disclose any acquisition or dealing in securities pursuant to such due-diligence as per the applicable regulations.

**Conditions for PE  
Funds**

18. (1) A Private Equity Fund may invest in unlisted equity, equity linked instruments of companies which require funding to develop and grow with the primary focus on matching medium to long term capital of investee companies.
- (2) The Private Equity Funds shall invest atleast 50% of the fund in equity shares or equity linked instruments of an unlisted company.
- (3) A PE fund shall not invest more than 50% in the equity or equity linked instruments of a company which is proposed to be listed
- (4) A PE fund shall not invest more than 50% in unlisted debt of a company where the fund has already made equity investment.

**Conditions for  
Debt Funds**

19. (1) Debt Fund shall invest atleast 60% of the corpus in debt or debt instruments of unlisted companies, not more than 25% of which may in convertible debt, with minimum maturity of 5 years.
- (2) Debt fund may invest remaining 40% in





- (i) securitized debt instruments
  - (ii) debt securities of listed company
  - (iii) equity shares of unlisted company where debt fund has invested in unlisted debt instruments.
- (3) The Debt Fund will have a system of credit assessment irrespective of the fact whether the investment is rated or unrated.

**Conditions for Infrastructure Fund**

20. (1) An Infrastructure Fund shall invest at least 66.67% of its corpus in the equity or equity linked instruments of infrastructure companies or SPVs of infrastructure projects as defined by Central Government or Planning Commission.
- (2) An infrastructure Fund may invest upto 33.33% of its corpus in debt instruments of investee company where it has made equity investment or in securitized debt instruments of an infrastructure company or SPV of infrastructure project.

**Conditions for SME Funds**

21. (1) The SME Fund shall invest primarily in the unlisted equity or equity linked instruments of SMEs in manufacturing, services sector as also businesses providing infrastructure or other support to SMEs as defined by the Ministry of Small and Medium Enterprises.
- (2) The SME fund may also invest in equity or equity linked instruments of SME companies which are listed or proposed to be listed in SME exchange or SME segment of RSE and provision of sub-regulation (4) of regulation 17 will be applicable mutatis mutandis to SME fund.
- (3) The SME Fund may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of a public issue or to receive or deliver securities in the process of market making under Chapter XA of SEBI (ICDR) Regulation, 2009.

**Real Estate Funds**

22. (1) The Real Estate Funds shall invest atleast 75% of its corpus in Real Estate Projects or fully built properties or in the SPVs engaged in Real Estate Projects.
- (2) The Real Estate Funds may invest upto 25% corpus in allied sectors of Real Estate.
- (3) Real Estate Fund shall invest at least 66.67% of its corpus in equity of equity linked instruments, and upto 33.33% of its corpus in debt or debt instruments of real estate projects or SPVs engaged in real estate projects.



- Social Venture Funds**
23. (1) The Social Venture Fund shall be targeted to investors who are willing to accept muted returns, say 10% to 12%.  
(2) The fund shall invest in social enterprises such as MFIs which satisfy social performance norms laid down by the fund.
- Conditions for Strategy Funds**
24. (1) The Strategy Fund may specify any strategy in any class of financial instruments.  
(2) The Strategy Fund may invest in derivatives, and complex structural products subject to requirement of suitability and disclosure to investors.  
(3) The Strategy Fund may leverage or float long or short strategy fund subject to consent from the investors in the fund, subject to a maximum leverage as may be specified by the Board.  
(4) The Strategy Fund which employ leverage, shall disclose information regarding the overall level of leverage employed, the leverage arising from borrowing of cash or securities and the leverage arising from position held in derivatives, the reuse of assets and the main source of leverage in their fund.  
(5) The Strategy Fund shall ensure that the leverage limits are reasonable and shall demonstrate how it complies at all times with those reasonable limits.
- Other AIF**
25. The Board may lay down framework for private funds other than the funds specified in these regulations.

## CHAPTER V

### GENERAL OBLIGATIONS AND RESPONSIBILITIES AND TRANSPERANCY

- General obligations of Alternative Investment Funds**
26. (1) AIFs shall provide to the Board information for systemic risk purposes (including the identification, analysis and mitigation of systemic risks).  
(2) AIFs shall review policies and procedures, and their implementation, on a regular basis, or as a result of business developments, to ensure their continued appropriateness.  
(3) The sponsor or manager of AIF shall appoint a custodian for safekeeping of securities of the fund if AUM is over 500 crore.  
(4) Performance fee or incentive structure for managers at AIF shall be such that it does not encourage excessive risk



taking or high leverage or high speculative activities.

- (5) AIF shall inform the Board in case of any change in the sponsor, manager or designated partners.
- (6) In case of change of control of sponsor or fund manager, prior approval from the Board shall be taken by the AIF.

**Avoidance of Conflict of Interest**

- 27. (1) The sponsor or manager of AIF or AIF shall act in a fiduciary capacity towards its investors and shall disclose all conflicts of interests as and when they arise or seem likely.
- (2) The fiduciary duty of manager, sponsor or designated partner shall preclude provisions that allow for them to be exempted or indemnified for conduct constituting a material breach of the fiduciary duties.
- (3) AIFs shall establish and implement written policies and procedures to identify, monitor and appropriately mitigate conflicts of interest throughout the scope of business that the firm conducts.
- (4) The sponsor, manager or designated partner of AIF or AIF shall not indulge in front running or insider trading.
- (5) Managers, designated partners and sponsors of AIF shall abide by high level principles on avoidance of conflicts of interest by associated persons as may be specified by the Board.

**Information Memorandum**

- 28. (1) An AIF shall disclose through a placement memorandum to a prospective investor all material information about itself, its business, its disciplinary history, the terms and conditions on which it offers investment services, its affiliations with other intermediaries and such other information as is necessary him to take an informed decision on whether to avail its services;
- (2) AIF to provide to their investors, initially and on an ongoing basis, a clear description of the investment policy, including descriptions of the type of assets and the use of leverage; redemption policy in normal and exceptional circumstances; valuation, custody, administration and risk management procedures; and fees, charges and expenses associated with the investment;

**Transparency and Disclosures**

- 29. AIF shall ensure transparency and disclosure of information to investors on the following:
  - (1) AIF shall provide detailed financial, risk management, operational, portfolio, and transactional information regarding fund investments.



- (2) All fees (i.e., transaction, financing, monitoring, management, redemption, etc.) generated by the manager or designated partner shall be periodically disclosed to investors.
- (3) All fees charged to the fund or any portfolio company by an affiliate of the manager, sponsor or designated partner shall also be disclosed.
- (4) The manager, sponsor or designated partner shall provide estimates of quarterly projections of capital calls and distributions.
- (5) Any inquiries by legal or regulatory bodies in any jurisdiction shall also be disclosed.
- (6) Any material contingency or liability arising during the fund's life shall be disclosed.
- (7) Any breach of a provision of the information memorandum, agreement or other fund documents shall be disclosed.
- (8) Activities related to changes in the actual or beneficial economic ownership, voting control or changes or transfers to legal entities who are a party to any related document of the fund shall be disclosed to unit holders. Such activities include but are not limited to:
  - a) Formation of public listed vehicles
  - b) Sale of ownership in the management company to other parties
  - c) Public offering of shares in the management
  - d) Formation of other investment vehicles
- (9) Annual reports of AIF shall include portfolio company and fund information on material risks and how they are managed. These should include:
  - a) Concentration risk at fund level
  - b) Foreign exchange risk at fund level
  - c) Leverage risk at fund and portfolio company levels
  - d) Realization risk (i.e. change in exit environment) at fund and portfolio company levels
  - e) Strategy risk (i.e. change in, or divergence from, investment strategy) at portfolio company level
  - f) Reputation risk at portfolio company level
  - g) Extra-financial risks, including environmental, social and corporate governance risks, at fund and portfolio company level
- (10) AIF shall provide financial information for Portfolio Companies and Fund information at the end of each year (within 90 days of year-end) to investors.



(11) Provide quarterly reports for portfolio companies and fund information at the end of each quarter (within 45 days of the end of the quarter) to investors.

**Obligation of Fund Manager**

- 30.** The fund manager shall be obliged to;
- (1) Address all investor complaints.
  - (2) Provide to the Board any information sought by Board.
  - (3) Maintain all records as may be specified by the Board.
  - (4) To take all steps to avoid conflict of interest as specified in these regulations.

**Dispute Resolution**

- 31.** An AIF shall lay down procedure for resolution of disputes between the investors, AIF or managers or designated partner such as through mediation, conciliation or arbitration.

**Power to call for information**

- 32.**
- (1) The Board may at any time call for any information from an AIF or its manager or sponsor or designated partner or trustee or an investor or partner or its lender with respect to any matter relating to its activity as an AIF or for the assessment of systemic risk or prevention of fraud.
  - (2) Where any information is called for under sub-regulation (1) it shall be furnished within the time specified by the Board.

**Maintenance of Records**

- 33.**
- (1) The AIF shall be required to maintain following records describing;
    - (a) The asset under the scheme/fund
    - (b) Valuation policies and practices
    - (c) Trading practices or investment or trading strategies
    - (d) Particulars of investors and their contribution
    - (e) Analytical or research methodologies
  - (2) The records under sub-regulation (1) shall be maintained for a period of five years after the winding up of the fund.

**CHAPTER VI**

**PROCEDURE FOR ACTION IN CASE OF DEFAULT**

**Liability for action in case of default**

- 34.**
- (1) An AIF who contravenes any of the provisions of the Act, regulations may be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediary) Regulations, 2008.
  - (2) Sub-regulation (1) shall not prejudice the operation of sections 11, 11B, 11D or 24 or Chapter VIA of the Act or of any other law for the time being in force.



**CHAPTER VII  
MISCELLANEOUS**

- Power of the Board to issue clarifications.** 35. In order to remove any difficulties in the application or interpretation of these regulations, the Board may issue clarifications and guidelines in the form of circulars or issue separate circular or guidelines or framework for each categories of funds.
- Delegation of powers** 36. The powers exercisable by the Board under these regulations shall also be exercisable by any officer of the Board to whom such powers are delegated by the Board by means of an order made under section 19 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).
- Repeal and Saving** 37. 1. The Securities and Exchange Board of India (Venture Capital Fund) Regulations, 1996 hereby stand repealed.  
2. Notwithstanding such repeal:  
a. Anything done or any action taken or purported to have been done or taken, including registration or approval granted to any fund or scheme, fees collected, scheme announced, registration or approval, suspended or cancelled, any inquiry or investigation commenced under the said regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations;  
b. Any application made to the Board under the said regulations and pending before it shall be deemed to have been made under the corresponding provisions of these regulations.

**SCHEDULE**

**Securities and Exchange Board of India  
(Alternate Investment Funds) Regulations, 2011  
See regulations 4(3) and 7(2)**

**FEES**

**Part A**

**AMOUNT TO BE PAID AS FEES**

Application Fee	Rs.1,00,000
Registration Fee	Rs.5,00,000

**Part B**

1. The fees specified above shall be payable by bank draft in favour of “The Securities and Exchange Board of India” at Mumbai.