

SECURITIES AND EXCHANGE BOARD OF INDIA
Memorandum to the Board

DRAFT REGULATIONS ON ALTERNATIVE INVESTMENT FUNDS

1. Objective

1.1. This memorandum proposes the draft SEBI (Alternative Investment Funds) Regulations, 2012 and seeks consideration and approval of the Board for the same.

2. Background

2.1. SEBI (Venture Capital Funds) Regulations ("VCF Regulations") were framed in 1996 to encourage funding by entrepreneurs' early-stage companies in India. However, over the years, it could be seen that the Venture Capital Funds (VCF) route was being used by several other funds including Private Equity (PE) funds, Real Estate funds, etc. This made it difficult to target concessions and incentives specific to VCFs without enabling other funds to avail of such incentives or concessions. Further, the investment restrictions placed on VCFs were sought to be relaxed by such funds registered as VCFs with SEBI.

2.2. Hence, on one hand, there were a set of funds like VCF which required incentives and concessions and were comfortable with consequent restrictions attached and on the other hand there were another set of funds like PE funds which did not require incentives and concessions but required investment flexibility.

2.3. Further, since registration of VCF was not mandatory under VCF Regulations, all players in the alternative funds industry were not registered with SEBI. Hence, there is a regulatory gap which needs to be addressed.

2.4. The Board, in its meeting held on July 28, 2011, while considering the agenda on "Plan of Actions for Compliance To Eight New IOSCO Objectives and Principles of Securities Regulation", approved the proposal for a clear regulatory framework for private pools of capital which may interalia provide for a mechanism to monitor and assess systemic risks and risks to financial market stability posed by the activities of such funds.

2.5. Taking into consideration the above, SEBI proposed a Regulatory framework for Alternative Investment Funds on August 1, 2011 through the concept paper placed on SEBI website along with the draft AIF Regulations. Concept Paper and draft AIF Regulations placed on SEBI website for public comments is enclosed as **Annexure A**.

2.6. Through this concept paper, SEBI proposed to regulate all funds established in India which are private pooled investment vehicles raising funds from Indian or foreign investors, excluding Mutual Funds and Collective Investment Schemes registered with SEBI. Further, any such pool of funds which is regulated by any other regulator in India like banks, pension funds, etc. would also be excluded from the purview of the proposed Regulations.

3. Comments received

3.1 The Concept paper and Draft AIF Regulations were placed on SEBI website for public comments on August 1, 2011 for comments till August 30, 2011.

3.2 108 comments were received from various entities running into more than 600 pages. The consolidated table of comments received from all the respondents is enclosed as **Annexure B**.

3.3 Some of the entities who responded are:

(Names of the entities have been excised for reasons of confidentiality)

3.4 The comments cover the following broad areas:

3.4.1 Scope and Applicability

There was lack of clarity regarding applicability and scope of the Regulations and clarity was needed on the following:

- a. AIF Regulation shall be applicable to funds established in India and not to funds domiciled overseas. (Investments by overseas funds are regulated by RBI under FEMA).
- b. Several class of investment trusts or pools of capital such as charitable trusts, family investment trusts, employee welfare/carry/ESOP trusts, securitisation trusts, holding companies, etc. shall need to be excluded from applicability of AIF Regulations.

3.4.2 Categorisation of Funds

- a. The purpose of various categories is to tailor incentives/ concessions/ benefits to specific categories of funds. However, the categories proposed were too many and were seen to be causing operational inflexibility without offering any specific benefits/ concessions.
- b. Several of the investment restrictions were found to be creating an unequal playing field for domestic funds vis-à-vis foreign domiciled funds which invest through FII, FDI and FVCI routes and on which no such restrictions are applicable.
- c. Accordingly, most responses have suggested reducing the number of categories to broadly the following categories:
 - (i) One category for those funds with positive spill over effects, where incentives are given and consequently investment restrictions are placed.
 - (ii) Another category of funds that are unleveraged and are neutral in their externalities where there are minimal incentives and minimal investment restrictions.

(iii) Funds including hedge funds that are considered to have negative externalities such as exacerbating systemic risk through leverage. However, such funds contribute to market efficiency. There may be no restrictions on such funds for investments but they may be regulated for liabilities and leverage.

3.4.3 Basic Incentives sought by Funds from SEBI

- a. To include all AIFs as QIBs under SEBI (ICDR) Regulations.
- b. To provide exemption from applicability of Reg 3 and 3A of SEBI Insider Trading Regulations in respect of investment pursuant to due diligence carried out for making investment in listed companies.
- c. Buyback by promoter of investee company from AIF to be exempted from Takeover Regulations.

3.4.4 Taxation

- a. Section 10(23)(FB) of Income Tax Act which provides tax pass through status is applicable only for VCFs for certain sectors as specified thereunder. Suggestions have been received on extending applicability of this Section to all AIFs.
- b. Clarity has been sought on taxation of income earned through AIFs at one level because presently income of the funds is being taxed at fund level and again at investor level. It is suggested that income must be taxed only at one level— either fund or investor as essentially all funds are pooling vehicles which are pass through in nature.

3.4.5 Investment Restrictions relating to NBFC and gold financing

- a. It was proposed in the Concept Paper that 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.

b. Comments suggested that the above restrictions create an unequal playing field for domestic funds vis-à-vis foreign funds. Thus, the only restriction on activities not permitted and under Industrial Policy of Government of India should be retained.

3.4.6 Fund Regulation

Following suggestions were made with regard to fund regulation:

- a. The draft Regulations propose a minimum contribution of 5% by the sponsor. This was felt to be very high and suggested to be reduced to 1-2% or be removed.
- b. There was a requirement that the sponsor shall hold investment till all other investments are liquidated and sponsor to acquire all unliquidated investments. It was felt that this will lead to differential treatment for sponsor and burden the sponsor with illiquid investments whereas industry practice is equitable treatment of all investors including sponsor and distribution of funds after liquidation and distribution of securities in case of unliquidated investments.
- c. It was proposed that minimum investment amount should be Rs. 1crore or 0.1% of fund size whichever is higher. As this imposes a condition of maximum 1000 investors, it was suggested that 1000 investors should be allowed in all forms of Funds ie. Trust, LLP or company without specifying the 0.1% of the fund size as minimum contribution as fund size may change depending on investor response.
- d. With regards to minimum investor commitment of Rs.1 crore, it was suggested to reduce it to Rs. 25 / 50 lakhs.
- e. With regard to alterations to fund strategy requiring 75% consent from unit holder, it has been suggested to be reduced to 66.67% or 2/3rd.
- f. The Regulations proposed that all AIFs shall be close-ended. It was suggested that AIFs may also be allowed to be open-ended.

g. It was proposed that minimum investment amount for portfolio managers may be increased from Rs. 5 lakhs to Rs. 25 lakhs. Several Portfolio Managers have suggested that this should be retained at Rs. 5 lakhs or increased to Rs. 10 Lakhs. (The Portfolio Manager Regulations have since been amended vide notification dated 10th February 2012 raising the minimum investment amount to Rs.25 lakhs.)

3.4.7Treatment of existing VCFs/ Unregistered funds

- a. Clarity was sought on applicability of AIF Regulations for existing VCFs.
- b. Clarity was sought on future of existing unregistered funds which are not able to comply with the conditions specified in AIF Regulations.

3.4.8General Obligations and Responsibilities

Several comments were made on the general obligation and responsibilities mentioned in the draft regulations as being too onerous, repetitive, vague or going into micro management. It was suggested to bring clarity in these areas.

3.4.9Specific/ Technical comments

There were detailed comments on specific provisions of the Draft AIF Regulations relating to:

- a. Drafting issues
- b. Modifications/ Additions to Definitions
- c. Clarity in technical terms/ phrases used, etc

It was suggested to bring clarity in these areas.

4. Draft AIF Regulations, 2012

4.1. The comments received were analysed and based on the comments, the draft AIF Regulations enclosed with the Concept Paper have been suitably revised. A copy of the revised Draft AIF Regulations, 2012 is enclosed as **Annexure C**.

Several suggestions have been incorporated while some have not been accepted. A brief overview of the Draft AIF Regulations, 2012 is given below.

- 4.2. Definition of AIF has been modified providing more clarity on Scope of the AIFs and clearly excluding foreign funds (funds set up outside India) from registration under AIF Regulations. Exemption from AIF Regulations has been provided to some private pools such as family trusts, employee benefit trusts, etc.
- 4.3. To prevent conflict of interest and/ or concentration of investments, Alternative Investment Fund shall not be permitted to invest more than 25% of the investible funds in one Investee Company. Further, Alternative Investment Fund shall not invest in associated companies (in which director or trustee or sponsor or manager of the AIF holds either individually or collectively, equity shares in excess of 15% of its paid-up equity share capital)
- 4.4. As AIF shall be professionally managed funds, they shall be recognized as QIB under SEBI (ICDR) Regulations.
- 4.5. To enable eligible AIFs to participate in the SME exchange as nominated investors and market makers, appropriate provision is incorporated along with exemption from Regulation 3 and 3A of SEBI (Prohibition of Insider Trading) Regulations, 1992 in respect of investment in companies listed on SME exchange pursuant to due diligence of such companies subject to disclosure and lock-in of one year
- 4.6. Classification of AIFs has been made in three broad categories:-
 1. Category I AIF – those Alternative Investment Funds with positive spillover effects on the economy, for which certain incentives or concessions may be given by SEBI or Government of India or other regulators in India; and which shall include Venture Capital Funds, SME Funds, Social Venture Funds and Infrastructure Funds. These funds shall be close ended, shall not engage in leverage and shall follow investment restrictions as prescribed for each category. Investment restrictions for VCFs have been retained as in the present VCF Regulations. Depending upon the specific need of each type of

funds, one or more of the following concessions shall be given to Category I funds:

- Exemption from one-year lock-in under ICDR Regulations from date of investment in the investee company.
- Exemption under Takeover Regulations on inter se transfer of shares from AIF to its promoters of the investee company currently being exempted under regulation 10(4) of Takeover Regulations for VCFs.

2. Category II AIF – those Alternative Investment Funds for which no specific incentives or concessions are given by the government or any other Regulator; which shall not undertake leverage other than to meet day – to – day operational requirements as permitted in these Regulations; and which shall include Private Equity Funds, Debt Funds, Fund of Funds and such other funds that are not classified as category I or III. These funds shall be close ended, shall not engage in leverage and have no other investment restrictions. This category of funds shall offer maximum flexibility as it has no restrictions on investment side apart from restriction on leverage.
3. Category III AIF – those Alternative Investment Funds which Funds including hedge funds that are considered to have negative externalities such as exacerbating systemic risk through leverage or complex trading strategies. However, such funds contribute to market efficiency. These funds can be open ended or close ended, may engage in leverage subject to limits as may be specified by the Board. Category III funds shall be regulated through issuance of directions regarding areas such as operational standards, conduct of business rules, prudential requirements, and restrictions on redemption, conflict of interest as may be specified by the Board

4.7. Some of the key suggestions have been accepted as follows:

1. Liability of sponsor to take up unliquidated investments at the closure of the fund has been removed.

2. Lock-in of sponsor's contribution till redemption to other investors has been removed.
3. Launch of Schemes under an AIF has been permitted along with filing fees of Rs. 1 lakh for every scheme.
4. Open ended funds have been allowed in Category III AIF.
5. Consent of 66.66% unit holders to be required in case of 'material' change in strategy instead of 75%.
6. For preventing managers from collecting fees/ commission from Investee Company for investing, a clause for conflict of interest has been included.
7. Minimum tenure of Category I and II funds has been specified as three years.
8. Minimum sponsor contribution has been made 2.5% or Rs 5 Crore whichever is lower.
9. Minimum investment amount Rs. 1 crore has been retained. Instead of 0.1% of fund size as minimum investment amount prescribed in the draft, it has been specified that any fund or scheme of a fund shall not have more than 1000 investors.

4.8. With regard to transition from present regulations to the new regulations it has been provided that:

1. All registered Venture Capital Funds or schemes launched under such Venture Capital Funds prior to date of notification of these Regulations shall continue to be governed by provisions of SEBI (Venture Capital Funds) Regulations, 1996 till the fund or Scheme is wound up.
Provided that such funds shall not raise any fresh moneys after notification of SEBI (Alternative Investment Funds) Regulations, 2012 except commitments already made by investors as on date of the notification. However the existing funds will be free to seek re-registration under the AIF regulations after obtaining approval of their 66.67% of investors by value.
2. Existing unregistered funds will not be allowed to float any new scheme without registration under AIF Regulations. However, schemes floated by such unregistered funds before coming into force of AIF Regulations, to be allowed to continue to be governed till maturity by the contractual terms,

except that no rollover/ extension shall be allowed. Such funds will be eligible to seek registration under AIF regulations subject to approval of 66.67% of their investors by value.

3. Existing unregistered funds which seek registration but are not able to comply with all provisions of AIF Regulations may seek exemption from the Board from strict compliance with the AIF Regulations.

4.9. Consequential changes shall need to be made in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, SEBI (Substantial Acquisition of Shares and Takeover) Regulations:

1. replace Venture Capital Funds with Alternative Investments Funds as applicable.
2. give QIB status to all categories of Alternative Investment Funds.

4.10. Consequential changes shall need to be made in SEBI (Prevention of Insider Trading) Regulations to enable investment by eligible Alternative Investment Funds in companies listed on SME Exchange following due diligence

5. Issues to be taken up with Government and other Regulators are as below:

5.1 VCFs are allowed a tax-pass through status in respect of investment in nine sectors under section 10(23) (FB) of the Income Tax Act. In the budget speech on March 16, 2012, Finance Minister announced that tax pass through status will be available to VCFs for all sectors. We may represent that similar provision for tax pass through may be provided for AIFs once the VCF Regulations are repealed and the AIF Regulations are notified.

5.2 Foreign investment into units of Trusts set up in India can come in only through the FVCI route. Schedule VI of FEMA allows FVCIs to make investment in Venture Capital Funds. To enable foreign investment into Alternative Investment Funds, consequential changes need to be made in Schedule VI of FEMA.

6. Draft SEBI (Alternative Investment Funds) Regulations, 2012 are placed at **Annexure C** for consideration and approval of the Board.

7. **Proposal**

- 7.1 The Board is requested to consider and approve the draft SEBI (Alternative Investment Funds) Regulations, 2012 as enclosed in **Annexure C** and authorize the Chairman to make such necessary or incidental changes to the draft AIF regulations 2012 (**Annexure C**) and take consequent steps, as may be deemed appropriate, to give effect to the decision.
- 7.2 The Board is requested to authorize the Chairman to take necessary steps to make consequential changes, as may be deemed appropriate, to SEBI (Issue of Capital and Disclosure Requirements) Regulations, SEBI (Substantial Acquisition of Shares and Takeover) Regulations and SEBI (Prevention of Insider Trading) Regulations, and repeal of SEBI (Venture Capital Funds) Regulations and to take such steps to give effect to the decision.

ANNEXURE –A

Concept Paper on Alternative Investment Funds is available on SEBI website.

ANNEXURE -B

Consolidated comments received on AIF Regulations

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A. Scope/ Definition of AIF

Sr. No	Comment	By	SEBI comments
1.	<p>Foreign funds included in the ambit of the AIF Regulations</p> <p>Comments:- To exclude foreign funds from AIF</p>		The details have been excised for reasons of confidentiality.
2.	<p>Inclusion of all Funds raising funds from Indian investors under AIF</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To include all Funds under AIF, whether Indian or foreign, which raise funds from Indian Investors 		
3.	<p>Inclusion of art funds, commodity funds, etc under AIF</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To clarify whether funds set up for investments in other asset classes (other than securities) would also be covered here - art funds, commodity funds etc. 		
4.	<p>Framework for other private Funds</p> <ul style="list-style-type: none"> • The Board may lay down framework for private funds other than the funds specified in these regulations • To clarify as to what other form of private funds would be included since all appear to come under AIF 		

B. Issues in definition of AIF

Sr. No	Comment	By	SEBI comments
5.	<p>Issues in Definition of AIF</p> <p>Comments:-</p> <ul style="list-style-type: none"> • Instead of 'raising of private capital', it should be 'pooling of assets' • To remove 'raising of capital' from definition of AIF since AIF only pools capital/ assets • After the "etc." the word "and" is missing • The words "presently not covered under the 		The details have been excised for reasons of confidentiality.

	<p>SEBI (Mutual Fund)...to regulate fund management activities." should be deleted.</p> <ul style="list-style-type: none"> Instead of 'individuals or corporate on any other legal entity', word 'person' must be used AIF should be expressly a collective investment undertaking in its own right Only those collective investment vehicles not covered by SEBI should come under AIF 	
6.	<p><i>Exclusions from definition of AIF</i></p> <p><u>Comments:-</u></p> <p>To exclude the following from the scope of AIF</p> <p>Regulations:-</p> <ul style="list-style-type: none"> Family investment Trusts Employee welfare/ carry/ ESOP Trusts Vehicle framed by Distributors, fund managers to pool a number of their clients into a vehicle that in turn invests into an AIF Feeder/ Co investment funds SPVs(including for holding investments by promoters in a single company / group companies) other SPVs not established by fund managers, including securitization trusts, Carried Interest Trusts/ Carry Vehicles Funds managed by ARCs Holding companies Securitisation Company or Reconstruction Company which is registered with the Reserve Bank of India under Section 3 of the SARFAESI Act, 2002 etc Other pure domestic concerns (involving no third party investors on account of being unavailable outside a specified category like family members, employees of a company etc.); / <i>other pure domestic concerns pooling capital from a limited and clearly identifiable class of investors for a special purpose and does not involve pooling of capital from third parties for diversified investments</i> NBFCS funds regulated by other Regulators from AIF 	

C. Legal form of AIF

Sr. No	Comment	By	SEBI comments
7.	<p>To not allow AIF in form of a Company</p> <p>SEBI may consider deleting the concept of AIF in the form of 'company' since The concept of limited life company does not exist in India so the term of the fund prescribed in Regulation 11 may be difficult to comply with in such structure</p> <p>SEBI may also consider deleting sub-clause (d) of Regulation 5(1), since the 'investment company' would be regulated by RBI as NBFC, and there are no specific enactments providing for establishment of investment trust or investment partnership as existing in some of the countries.</p>		The details have been excised for reasons of confidentiality.
8.	<p>Allow AIF as a pure partnership</p> <p>To allow AIF as a pure partnership along with the other types of entities mentioned in the draft. (Not LLP since a normal partnership is pass-through while LLP is not)</p>		

D. Clarification on Fund managers

Sr. No	Comment	By	SEBI comments
9.	<p>Impression that fund managers shall also be regulated under AIF along with the Fund-</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To remove the clause • To clarify, especially whether fund managers of offshore funds are included • The word 'and manage' may be deleted from Regulation 4(1). 		The details have been excised for reasons of confidentiality.
10.	<p>Regulation of fund manager</p> <p>Comments:-</p> <ul style="list-style-type: none"> • Suggestion to regulate fund Managers and not the AIFs 		

11.	<p>Fund Managers managing money raised outside India</p> <p>Comments:-</p> <ul style="list-style-type: none"> Managers of funds that do not raise any funds in India, even if they are domiciled in India or advise on investments in India, must be excluded from the scope of these Regulations. 	
12.	<p>Clarification on a fund manager managing more than one AIF-</p> <p>Comments:-</p> <ul style="list-style-type: none"> To clarify whether a fund manager can manage more than one AIF 	
13.	<p>Allowing multiple Managers for a single AIF</p> <p>Allow a Fund to have more than one investment manager</p>	
14.	<p>Funds not falling under other SEBI Regulations</p> <p>Comments:-</p> <ul style="list-style-type: none"> To specify that SEBI will regulate other funds which do not fall in any of the SEBI regulations as people will find the way out not to get registered under AIF Regulations 	

E. Portfolio Managers

Sr. No	Comment	By	SEBI comments
15.	<p>Clarification on applicability of AIF Regulations to Portfolio Managers (PMS)</p> <p>Comments:-</p> <ul style="list-style-type: none"> Clarification on what part of PMS will come under AIF should be made in the Regulations 		The details have been excised for reasons of confidentiality.
16.	<p>Prospective effect to Regulations</p> <p>Comments:-</p> <ul style="list-style-type: none"> Regulation should apply prospectively for PMS. The following clause may be introduced as 		

	<p><i>Regulation 4(2A):</i></p> <p><i>The funds already committed/ contributed by investors to Portfolio Managers registered under SEBI (Portfolio Managers) Regulations, 1993 shall continue to be regulated by the said regulations for the period agreed contractually between the Portfolio Manager and the respective investor</i></p>	
17.	<p><i>Raising minimum investment amount in PMS from Rs. 5 lakhs to 25 lakhs-</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove the clause • Raise the amount to maximum Rs. 10 lakhs • Raise the amount to Rs. 25 lakhs for discretionary PMS & keep the amount same as Rs. 5 lakhs for non-discretionary PMS • Minimum Investment Criteria in PMS may be changed to 'Minimum Net worth' • Give 2 years to comply with higher ticket size for PMS 	
18.	<p><i>Transition of existing PMS clients to AIF</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To permit Portfolio Managers currently registered with SEBI as PMS license holders to transition their clients with minimum investments that meet the minimum prescribed under the AIF Regulations to an AIF status, at no or reduced costs. 	
19.	<p><i>Clarification regarding Pooling for PMS</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To clarify that Pooling for PMS would mean pooling of asset in the nature of a Fund and not pooling of assets for trading purposes • All portfolio managers who seek to pool assets such as for investing in unlisted securities (except unlisted debt securities) should be required to register as an AIF. Unlisted debt securities are a common feature of structured products offered under a PMS platform and therefore can continue under the current PMS regulations 	

20.	To allow leverage in PMS	
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F. Grandfathering of Venture Capital Funds (VCF) Regulations

Sr. No	Comment	By	SEBI comments
21.	<p><i>Clarification on applicability of AIF Regulations to Venture Capital Funds (VCFs)</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To clarify whether existing VCFs need to be registered as an AIF – Reg 4(1) and (2) confusing • To continue existing VCFs under VCF Regulations • To clarify that additional drawdowns/ raising fund size by current VCFs may be allowed • Reg 37 on Repeal of VCF Regulations clashes with Reg 4(2) which says existing VCFs will continue under VCF Regulations till it is wound up • Regulation 4(2) may be revised to clarify that in the case of VCFs having multiple schemes, Regulation 4(2) shall apply till the last of the scheme is wound up. If required SEBI may clarify that no new scheme would be permitted unless registered under the AIF Regulations. • To modify 4(2) as “<i>The funds already registered as VCF under SEBI (VCF)Regulation, 1996 shall continue to be regulated by the said regulations:</i> <ul style="list-style-type: none"> • <i>till the life of the Fund/ Scheme(s) or</i> • <i>its disinvested completely or</i> • <i>wound up as per SEBI (VCF) Regulations</i>” • For an existing AIF which applies for registration, if application is rejected, to allow current scheme to continue to prevent affecting investors though allowing no fresh 		The details have been excised for reasons of confidentiality.

	<p>schemes is ok</p> <ul style="list-style-type: none"> • There should also be a prohibition on the VCFs setting up any new schemes under the old registrations • If partial drawdowns have been done by a VCF, whether it will have to abort the scheme or can continue till full drawdowns is made and till end of tenure under VCF Regulations • Whether reporting by existing VCFs will continue in same format under VCF Regulations or will be in accordance with AIF Regulations • To have prospective effect for Regulations 	
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G. Amendments to other SEBI Regulations

Sr. No	Comment	By	SEBI comments
22.	<p><i>Amendments to other Regulations</i></p> <p><u>Comments</u></p> <ul style="list-style-type: none"> • Appropriate Amendments to be made to Insider Trading, ICDR, Reg 24(2) of MF Regulations, etc. 		The details have been excised for reasons of confidentiality.
23.	<p><i>Benefits to AIF under other SEBI Regulations</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • <u>General</u> • Providing more exemptions to AIF funds from other SEBI Regulations viz. Takeover code, SEBI (Prohibition on Insider Trading) Regulations, 1992, etc • <u>Takeover Regulations</u> • Some of AIFs may be given exemption under Takeover Regulations as presently inter se transfer of shares from VCF to its promoters is exempted under regulation 3 of Takeover Regulations • Higher trigger thresholds for making an open offer under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 • Clarifying that routine 'positive' and 'negative' covenants in shareholders' agreement for a 		

	<p>listed company do not tantamount to “control” or trigger an open offer requirement, extending the exemption from lock – in requirement as is currently available to venture capital funds to all classes of AIFs upon listing of a company,</p> <ul style="list-style-type: none"> • <i>ICDR Regulations</i> • All AIFs should be given QIB status under SEBI (ICDR) Regulations. • Exemption from one-year lock-in under ICDR Regs only to be granted to all categories of AIFs & not only VCFs, PE Funds, Social Venture Funds and SME Funds. • Exemption to be calculated from date of investment & not date of IPO • Bonus shares received by a fund in relation to an investment within one year before the IPO should be also exempt, if original investment is held for more than 12 months <ul style="list-style-type: none"> • <i>Insider Trading Regulations</i> • Allow Insider Trading exemption to all investments in listed companies except for Category C Funds & have no lock in • Allow exemption to all AIFs with a 1 year lock in 	
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H. Issues pertaining to RBI

Sr. No	Comment	By	SEBI comments
24.	<p><i>Overseas investments by AIF</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To clarify whether investments abroad will come under AIF 		The details have been excised for reasons of confidentiality.
25.	<p><i>FVCI permitted to invest only in SME Funds, Social Venture Funds and VCFs</i></p> <p><u>Comments:</u></p> <ul style="list-style-type: none"> • FVCI should be allowed to invest in each of the AIF categories 		

26.	<p>Applicability of FDI Policy and FEMA guidelines</p> <p>Comments:-</p> <ul style="list-style-type: none"> • The Consolidated FDI Policy of the Government of India dated 31 March 2011 and FEMA, 1999 and regulations issued thereunder needs to be amended to allow actual participation to foreign investors in AIF under the automatic route- 7 Since the current FDI policy and FEMA Regulations only provides for FDI in VCF. • While foreign investors are covered in the definition of HNIs as eligible for investment in an AIF. Clarity is required for their actual participation in AIFs under the FDI Guidelines. This may contradictory to the current Foreign Direct Investment policy with respect to investments by non – residents in trusts or limited liability partnerships. 	
27.	<p>Clarification regarding FII</p> <p>Comments:-</p> <ul style="list-style-type: none"> • Whether FIIs be allowed to invest in different AIFs • Whether existing FII would have to comply with both AIF and FII Regulations 	

I. Issues pertaining to government

Sr. No	Comment	By	SEBI comments
28.	<p>Tax passthrough status</p> <p>Comments:-</p> <ul style="list-style-type: none"> • The government should grant tax pass through status, allow NRIs to invest, recognize such funds under the FDI policy. • Section (23FB) of Income tax act providing tax pass through should be available for all AIFs 		The details have been excised for reasons of confidentiality.
29.	<p>Treating investments as CSR</p> <p>Comments:-</p> <ul style="list-style-type: none"> • investment by companies in a SEBI 		

	registered Social Venture Fund be treated as CSR as per the requirement under the Companies Act	
30.	<p>Clarity on tax</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To provide more clarity on tax 	
31.	<p>Benefits under other Laws/ Acts</p> <p>Comments:-</p> <ul style="list-style-type: none"> • Certain basic benefits available under the other laws viz. Income tax Act, 1961, Competition Act, 2002, the Securities Contracts (Regulation) Act, 1956, LLP Act, 2008, etc should be made available to all categories of AIFs, with additional benefits being made available to VCFs, social venture funds and other categories that the Government would like to encourage. 	
32.	<p>To provide <i>special exemptions for Social Venture Funds</i> akin to Tax-exempt status in US for such funds</p>	

J. LLP Act

Sr. No	Comment	By	SEBI comments
33.	<p>Applicability of LLP Act provisions</p> <p>Comments:-</p> <ul style="list-style-type: none"> • Many sections of the regulations override the provisions of the LLP Act 2008- Chapter III (10) (c), (d) and (h) • The RoC, which is the body with which an LLP must be registered requires some form of in-principle approval from appropriate regulator before it grants registrations to LLPs who describe investment activities as their principal object. This is despite the fact the LLP Act does not have such restriction. <p>If AIF is established as LLP, it will be difficult to get registration from RoC. SEBI may take up matter with RoC</p>		The details have been excised for reasons of confidentiality.

K. Clarity in terms/ definitions used

Sr. No	Comment	By	SEBI comments
34.	<p><i>Role of the Sponsor</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Role of sponsor was not very clear in the Existing Regulations • Need for Separation of roles between the Asset Manager and the Sponsor especially where responsibility is cast upon either. 		The details have been excised for reasons of confidentiality.
35.	<p><i>Issues in definition of HNI</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Using HNI or institutional investors in definition of AIF is not required • HNI definition to be deleted • Definition of HNI to be as per ICDR Regulations • Definition is unclear • To be tied to net worth and not minimum investment, • Exemption to be provided to employees of the sponsor/manager • May be amended to read as 'individuals or corporate willing to invest' 		
36.	<p><i>The Securities and Exchange Board of India hereby makes the following guidelines namely...-</i></p> <p>To replace 'Guidelines' with 'Regulations'</p>		
37.	<p><i>To clearly state in definition of 'Manager' than only domestic managers are included</i></p>		
38.	<p><i>Clarity on sufficient/ adequate experience/ qualification</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Requiring the sponsor or fund manager to have 'sufficient experience'- to clarify 'sufficient' • Requirement of 'professional qualification' of fund manager- to define professional qualification clearly 		
39.	<p><i>To define clearly/ give reference of relevant Regulations for:-</i></p> <ul style="list-style-type: none"> - Infrastructure Finance Company - Asset Finance Company 		

	<ul style="list-style-type: none"> - Core Investment Company - companies engaged in microfinance activity 	
40.	<p><i>Allow other persons to contribute towards 5%/ clarify 'sponsor' definition</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Sponsor's minimum commitment of 5% to be changed to include Partners in case of LLP, Directors in case of company. • To also require fund managers to contribute. • To include employees, Advisors, Investment Team etc. 	
41.	<p>To change '<i>Activities not permitted and under Industrial Policy of Government of India</i>' to <i>'Activities not requiring licensing under the Industrial Policy of the Government of India'</i></p>	
42.	<i>To define 'sponsor'</i>	
43.	<i>To define 'principal officer'</i>	
44.	<i>To define 'key investment team'</i>	
45.	<i>To define 'private capital'</i>	
46.	<i>To define 'Smaller Size listed companies'</i>	
47.	<i>To define 'Affiliate'</i>	
48.	<i>To define 'Real Estate'</i>	
49.	<i>To define 'Unit'</i>	
50.	<i>To define 'Designated Partner'</i>	
51.	<i>To define 'unlisted debt'</i>	
52.	<i>To define 'key persons'/ Limit It to investment manager</i>	
53.	<i>To define 'Unit holder'</i>	
54.	<i>To define 'Beneficiary'</i>	
55.	<i>To define 'Beneficial Interest'</i>	
56.	<i>To define 'Trustee'</i>	
57.	<i>To define Institutional Investor</i>	
58.	<i>To define Professional Investor</i>	
59.	<i>To define Associate Company (as currently appearing in VC Regulations)</i>	
60.	<i>To define Equity Linked Instruments (as currently appearing in VC Regulations)</i>	
61.	<i>To define Investment Company</i>	
62.	<i>To define Investment Trust</i>	
63.	<i>To define Investment Partnership</i>	
64.	<i>To define Infrastructure Equity Fund</i>	

65.	To define change in control	
66.	To define complex structural products	
67.	To define reasonable limits for leverage	
68.	To define asset management company To define Investment management company	
69.	To define 'investment strategy'	
70.	To define 'hedge fund'	
71.	To define 'financial weak company'	
72.	To define 'securitised debt instruments'	
73.	to define 'certificate'	
74.	To define 'systemic risk'	
75.	To define 'fund size'	
76.	To define 'financial soundness'	
77.	To define 'debt instruments'	
78.	To define 'warrants'	
79.	To define 'financial information'	
80.	To define pooling or private pool of capital Even small private Ltd company or LLP or private trust could be construed as private pool of capital if it has more than one contributors to capital	
81.	To clarify whether appointment of "Manager" is mandatory and whether sponsor can act as manager	
82.	To clarify whether 'manager' and 'fund manager' are the same since both have been used many times	
83.	To define Company proposed to be listed Whether this relate to a pre-IPO investment or participation in IPO or any other company which may have a plan to list.	
84.	To delete term 'business model' whether strategy term is also used since both strategy an business model mean same thing	
85.	Clause:- An AIF shall disclose through a placement memorandum to a prospective investor all material information about itself, "its business", its disciplinary history, etc. Comments:- - the term "business" be replaced with "investment strategy" since an AIF is merely a pooling vehicle for investment purposes and it does not therefore engage in "business".	
86.	Clause AIF shall disclose its "trading practices	

	<p><i>or investment or trading strategies</i></p> <p>Comments:-</p> <p>“trading practices or investment or trading strategies” be replaced with “investment strategies” since AIF is merely a pooling vehicle for investment purposes and hence it does not therefore engage in business or trading activities.</p>	
87.	<p>To add “Limited Liability Partnership Act, 2008” after “the Companies Act, 1956” appearing in the definitions.</p>	
88.	<p>To delete Reg 5 (1) (d) -whether the applicant is an investment company, investment trust, investment partnership</p> <p>which is a repetition of Reg 5 (1) (a)-</p> <p>whether Alternative Investment Fund will be constituted in form of trust or as limited liability partnership or company</p>	

L. Fees charged by AIFs

Sr. No	Comment	By	SEBI comments
89.	<p>Uncertainty in fees that can be charged</p> <p>Comments:-</p> <ul style="list-style-type: none"> • There is a lot of uncertainty as regards to the fees of the manager/sponsor as the Regulations do not cover the same in detail • This should be a bilateral arrangement between the fund manager and the investor and given that the threshold of investment is being raised from Rs. 5 lakhs to Rs. 1 cr • 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- • If the cost of fund management is below certain percentage of assets, the performance fee would be based on the structure proposed by the Fund and need not be the higher water mark model. This is to discourage the fund manager from closing a fund prematurely and start a new 		The details have been excised for reasons of confidentiality.

	fund.	
90.	<p><i>Limit on operational expenses / fees</i></p> <p><u>Comments:-</u></p> <p>There may be a limit on operational expenses / fees (a la mutual funds / ULIPs)</p>	
91.	<p><i>Performance fees to discourage excessive risk taking or high leverage or high speculative activities-</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Very broad & should be narrowed down • To be deleted • Performance fee to be linked to the returns 	
92.	<p><i>SEBI's power to specify criteria for charging performance fee by the managers of AIF</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove the clause since it is not globally practiced & should be determined by market forces 	

M. Fund strategy

Sr. No	Comment	By	SEBI comments
93.	<p><i>Clause:- Any alteration to the fund strategy can be made with the consent of at least 75% of unit holders</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove clause, will inhibit quick rebalancing and redeployment of funds; • To lower percentage to 66.66% • To change to 'Significant change in strategy'/'Material Alteration'. "Material Alteration" to be defined as any significant change to the fund strategy which alters the primary fund strategy and questions the main focus of the Fund. • To change to 'with the approval of the Investment/Advisory Committee of the fund on the option of the unit holders' • To specify that 75% is with respect of value of shareholding and not number of shareholders 		The details have been excised for reasons of confidentiality.

	<ul style="list-style-type: none"> Given the strategy is only being changed within the boundaries of its overall fund type (i.e. Debt Fund/Strategy Fund), the prospectus should be allowed to spell out different conditions to change aspects of the strategy without seeking consent. 	
94.	<p><u>Clause:- 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'</u></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> To remove clause To revise as follows:- <i>Any material change in the composition of the key investment team resulting in a change of more than 50% of the key investment team shall allow the beneficiaries to reconsider and reaffirm positively their decision to commit.</i> Provided however, the above shall not be applicable in case AIFs with an institutional sponsor / manager which is either itself or whose parent is regulated by any regulatory authority in India, such as SEBI, RBI, IRDA, etc. The clause will give too much power in hands of investors & 'significant change' can be interpreted in any way. 'Key investment Team' , 'significant change' terms unclear To clarify whether confirmation to be sought from all investors on every such change To be modified to provide that it would suffice if investment approach is agreed between the investor and the fund before the investor commits to invest To remove all investor approval for change in key investment team since there is frequent churn of professionals in big firms The clause is against Reg 9(2) which requires approval of 75% of investors Instead of insisting on affirmative confirmation in support of the change, threshold to be laid on the maximum % of negative confirmation that should be received so as to withhold the proposed change. 	

	<ul style="list-style-type: none"> • To allow Investment Manager to replace key persons as approved by a majority within a prescribed time frame and if not done, then investors can reconsider their commitments. 	
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N. Clauses pertaining to Sponsor

Sr. No	Comment	By	SEBI comments
95.	<p><i>Minimum sponsor contribution of 5%</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove the clause • To reduce % to 1-2% • To be tied up to a % of the manager's net worth • To allow fees to be included as sponsor contribution • The commitment should be made by the sponsor / manager / principal officer / any partner and not by director / designated partner • To remove requirement for AIFs raising from accredited investors • To add manager to contribute to 5% • Minimum contribution should be by promoters and not directors of an AIF company • To make 5% contribution not upfront but in proportion to the drawdowns 		The details have been excised for reasons of confidentiality.
96.	<p><i>5% minimum sponsor contribution not allowed through the waiver of management fees.-</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To allow contribution through waiver of management fees • For the company structure, the contribution should be either from promoter/major shareholder or director. • Manager could give his contribution by way of management fees 		
97.	<p><i>Lock-in of sponsor's fund till reimbursement to all other investors</i></p> <p><u>Comments:-</u></p>		

	<ul style="list-style-type: none"> • To remove the clause • To add to clause <i>“and this shall be redeemed in proportion to their respective share in investment out of the distributable surplus, however the distribution to the sponsor or Designated Partner of director shall be done only after the distribution to all other investor in the fund.”</i> • Lock in on the said amount to be isolated from the redemption by the last investor 	
98.	<p><i>Liability of sponsor, manager or designated partner to take up unliquidated investment after winding up</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove clause • To ensure oversight of economics of any specific investment option to be provided to the LPs to gain ownership of any unliquidated investment or for such investment to be written off. • Sponsor may misuse the clause and state that the asset cannot be sold off only to take it up after winding up. 	
99.	<p>Liability of the sponsor to take up unliquidated investments- <i>Valuation</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Valuation clause to be added • While valuation as per specific norms to be done by an external auditor, it may not be less than the value as declared by the fund in the previous year. • Unliquidated investments at the time of end of the term of fund to be adjusted against the minimum contribution to be distributed back to the sponsors. 	
100	<p><i>Relevant experience required for the sponsor or fund manager or Asset Management Company of AIF</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove experience criteria fully • Experience of ‘affiliates’ or the ‘group companies’ to be considered for this clause 	

	<ul style="list-style-type: none"> • To clarify that the experience of sponsor or fund manager or managers which they may have gained outside India will also be relevant for this purpose • To remove 'sponsor' • All track record, qualifications, criteria, etc. not be applicable to the sponsor but be applicable to the fund manager 	
101	<p><u>Clause:- Manager, sponsor/ partner restricted from transferring their real or economic interest in AIF in order to ensure continuing alignment with the AIF-</u></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove clause • To provide exception in case the fund managers leaves the organization • To make an exception for “permitted transfers” • To permit transfers after the lock-in period to any person or entity that would have been able to subscribe in the fund initially • To add ' except to affiliate entities' • To permit transfer of interest beyond the minimum contribution required by the Sponsor 	
102	<p><u>Clause:- 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-</u></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove clause since there should be flexibility for co-investment in cases where AIF is unable to make entire investment in a transaction • To add in clause- <i>However if the right to co invest is available to all the shareholders of the Fund after the Fund has invested its share of capital, then the co investment can be done by the shareholders of the Fund.</i> • <i>Under extant regulations, a foreign sponsor setting up a domestic fund cannot make investments in the domestic fund without regulatory approvals. This is a discretionary</i> 	

	<p>approval and needs to be factored into the Draft Regulations- An appropriate exception may be created for such situations.</p> <ul style="list-style-type: none"> • The requirement should be specifically regarding the initial commitment of the fund manager and not on incremental investments. The initial commitment made by the manager shall be in the pooled fund vehicle but this should not restrict the fund manager or investors from investing in underlying deals • To be revised as follows: <i>The manager, sponsor or designated partner may co-invest in select underlying deals, provided however such co-investment term shall not be on terms more favourable than those offered to AIF.</i> • To be revised as follows: “The manager, sponsor or designated partner shall not co-invest in select underlying deals but will be required to either (a) make its entire commitment through the AIF, or (b) co-invest (pro rata its commitment as against the aggregate size of the fund) in every portfolio company that the AIF makes an investment in.” 	
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O. Registration aspects

Sr. No	Comment	By	SEBI comments
103	<p><i>Effect of refusal of grant of certificate</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • There is no particular clause for the effect of refusal of grant of certificate 		The details have been excised for reasons of confidentiality.
104	<p><i>Exemption from registration</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Exclude small funds less than 100 cr AUM from regulatory ambit in line with global practices in UK and US to avoid costs of complying with regulations • Funds that do not use leverage or 		

	<p>derivative products do not create systemic risks and should be excluded from registration</p> <ul style="list-style-type: none"> • (EU directive provides exemption for funds with AUM< 100 mn Euros for leveraged funds and 500 mn Euros for non-leveraged funds) • To provide exemption from registration for Social Venture Funds below a certain size & for within certain number of investors 	
105	<p><u>Clause:- An AIF required to draw up drawdown schedule as an eligibility criteria for registration</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> • To remove clause since drawdown schedule may vary in future • To allow to state that drawdown schedule is subject to change 	
106	<p><u>The eligibility criteria should apply to management of sponsor or asset management companies and not just the sponsor entity</u></p>	
107	<p><u>Reduction in registration fees</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> • Registration fees should be reduced or a tiered fee structure based on AUM should be used to reduce overhead costs especially for smaller funds <ul style="list-style-type: none"> • If AUM< 500 Cr., App Fee- Rs.10,000 Reg Fee Rs.50,000 • If AUM> Rs 500 Cr., App Fee Rs.1L Reg Fee- 5L/ • Total Fees should be in the range 2-4 lacs depending on the size of fund- <ul style="list-style-type: none"> • If AUM< 500 Cr., Reg Fees- Rs. 2 lacs • If AUM> Rs 500 Cr., Reg Fees- Rs. 4 lacs 	
108	<p><u>Timeline for registration</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> • AIF Regs should provide 21-days / defined timeline within which application for registration will be accepted or rejected by SEBI. Rejection of application should be in the form of a speaking letter. • In case of registration of scheme of an already registered AIF, If no observations are 	

	<p>provided by SEBI in 21 / specified days, the scheme shall be deemed to be approved</p> <ul style="list-style-type: none"> • SEBI may specify a timeframe for disposal of application of say 2 months 	
109	<p><i>Registration documentation</i></p> <p>There should be two set of documentation for registration:</p> <ol style="list-style-type: none"> 1) Entity specific information (this would include standard information on sponsor, asset manager, trustees, etc. This may be collected initially and may not be insisted for every separate fund registration) 2) Fund specific information 	
110	<p><i>Allow a fund manager to reapply after rejection to address any deficiencies in his/her application</i></p>	

P. Tenure/ Term of the Fund

Sr. No	Comment	By	SEBI comments
111	<p><i>To remove / reduce minimum tenure of the fund</i></p>		The details have been excised for reasons of confidentiality.
112	<p><u>Clause:- 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.-</u></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove 3 years • To be valid till entire tenure including extended tenure • To increase 3 year to 5/ 7 years • To modify as “Without prejudice to the powers of the Board to take any action under the Act or regulations made there under, the certificate of registration shall be valid until the end of the term of the AIF after the distributions to the relevant parties as contemplated by the AIF has been completed” 		
113	<p><i>Permanent registration</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Since SEBI has, through recent 		

	<p>amendments, done away with renewal concept for other intermediaries like merchant bankers and has brought the concept of permanent registration, similar provisions may be applied for AIF also to maintain parity as well as to give level playing field to all the intermediaries including AIFs.</p>	
114	<i>To allow open ended funds</i>	
115	<i>Clarification on 'tenure'</i>	<p>Comments:-</p> <ul style="list-style-type: none"> • When the commencement of fund life will be considered while determining tenure i.e. Date of Registration, Date of Fund launch, Date of Initial Closing, Date of final Closing
116	<i>Compulsory liquidation within a year after expiry of fund term in the absence of consent of all unit holders</i>	<p>Comments:-</p> <ul style="list-style-type: none"> • To remove clause • To consider making the liquidation period subject to market conditions, otherwise it could result in a fire sale reducing asset value. • Instead of all unit holders, to require 75% approval
117	<i>Clause:- Extension of the tenure of the fund may be permitted up to 2 years only at a time and to be approved by a 75% of the beneficiary or the unit holders</i>	<p>Comments:-</p> <ul style="list-style-type: none"> • To remove clause • To allow over and above automatic extension agreed in the tenure in the PPM; To remove 2 years but retain 75% approval from investors for extension • To have extension at discretion of the manager • To have extension as per info memorandum. Any further increase may require SEBI/ majority investor approval • To specify that 75% is in terms of value of the fund and not number of investors

	<ul style="list-style-type: none"> Instead of insisting on affirmative confirmation in support of the change, threshold to be laid on the maximum % of negative confirmation that should be received so as to withhold the proposed change. 	
118	To provide clarity on winding up of AIF	

Q. Categories

Sr. No	Comment	By	SEBI comments
119	<p>Changes in the types of categories & definitions of the categories & investment restrictions pertaining to various categories</p> <p>Comments:-</p> <ul style="list-style-type: none"> Reduce the number of categories Remove/ reduce investment restrictions applicable to various categories 		The details have been excised for reasons of confidentiality.
120	<p>To create 3 Categories of Funds- A,B,C instead of the specified categories</p> <ul style="list-style-type: none"> Category A Funds to invest 75% of the corpus under one stated strategy (articulated and approved while seeking registration). For 25% of corpus, they can be opportunistic with objective of reducing risk or increasing returns or both Category B Funds can be completely opportunistic on strategies they will follow / assets targeted subject to restrictions agreed with their Investors Category A and B Funds cannot use leverage. Category C Funds would be funds that leverage their capital & their investments such as hedge funds 		
121	To have different Regulations for Hedge Funds since they are different from other		

	AIFs	
122	<p>Leverage & Trading</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To allow leverage to some extent • Allowing intraday trading, use of derivatives broadly, allowing commodity derivatives, currency derivatives, etc. • To specify amount of leverage allowed • Consider allowing leverage ratios to be set out in the prospectus or for the Board to set out the maximum leverage ratios in advance. • Is the intention for leverage to be employed through purely synthetic means or can it include margin financing? • Is leverage intended to be provided by onshore entities only? 	
123	<p>To provide incentives on a deal-to-deal basis than having categorisation of funds</p>	
124	<p>'Fund of Funds' Category</p> <ul style="list-style-type: none"> • To allow fund of funds • Whether it is covered under 'Strategy Funds' (Details of global experience of Fund of Funds provided by Religare Enterprises) • Fund of Funds may have minimum investment amount of Rs. 25L 	
125	<p>Revision in definition of SME Funds-</p> <p>To revise as</p> <p>“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 various sectors such as manufacturing, service sectors, IT, etc. or those SMEs which are listed or proposed to be listed in</p>	

	<i>SME exchange or SME segment of an exchange.</i>	
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R. Investment restrictions

Sr. No	Comment	By	SEBI comments
126	<p><i>Investment in secondary market</i></p> <p>Comments:-</p> <ul style="list-style-type: none"> • Allow investment in secondary shares • Also allow same for FVCIs 		The details have been excised for reasons of confidentiality.
127	<p><i>An AIF may not invest more than 25% corpus in one company</i></p> <p>Comments:-</p> <ul style="list-style-type: none"> • To remove clause / increase the limit to 50% • Change 'corpus' to 'committed capital' 		
128	<i>To allow investment in LLP interests or debentures issued by LLPs</i>		
129	<i>To clarify that the investment conditions and restrictions would be required to be achieved by the fund by the end of its life cycle.</i>		
130	<i>To consider allowing investments in liquid funds in the interim</i>		
131	<p><u>Clause:- AIF or managers shall not engage in selling individual assets of investee company for making a profit-</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> • Clause is unclear as to whether this refers to disposal of assets by an investee company. If it does to remove clause. AIF may not have control of investee company. AIF has to execute its fiduciary obligations by doing what is best for extracting value in the Company • To provide exception for debt funds as well as for debt investments by other kinds of AIF, where security is sought to be enforced. • To specify cases where exemptions are allowed 		

	<ul style="list-style-type: none"> • A suitable exclusion may be provided to enable AIFs to enforce any obligation, agreed with the investee companies / promoters. • More clarification required • Selling Individual assets is common in Real Estate Funds and hence such case may be considered 	
132	<i>Permitting VCFs to make investments by way of grants and aid as well</i>	
133	<i>Investment in NBFCs</i> <ul style="list-style-type: none"> • Allow AIFs to invest all Non Banking Finance Companies (“NBFCs”) as defined under the foreign direct investment policy issued by DIPP from time to time to have parity between Foreign Funds and AIFs • Permit existing VCFs who would be continuing under the VCF Regulations to invest in CICs like AIFs • Allow investment in microfinance NBFCs • Exemptions to invest in NBFCs should not apply to Strategy Funds 	
134	<i>Allow hedging</i> To clarify permissibility of some amount of ancillary investments, for instance, to hedge any foreign exchange or interest rate risk, without an AIF incurring categorization as a “Strategy Fund.”	
135	<i>Investment in warrants and equity-linked instruments</i> <u>Comments:-</u> <ul style="list-style-type: none"> • Allow investment in warrants for VCFs • Investment condition of minimum 66.66% in unlisted equity for VCFs to be changed to 'equity or equity linked instruments' 	
136	<i>Specifying securities for various categories</i> To specify securities or such other instruments for each type of fund in this AIF Regulation	
137	<i>Investment in debt</i> Whether 33.33% restriction on investment in debt required when a Fund with 100% debt investment is allowed under Debt Funds	
138	<i>To use general term ‘security’ in the</i>	

	<p>Regulations instead of using terms like 'instruments' etc.</p>
139	<p>SME Funds/ Investments in SMEs</p> <p>Comments:-</p> <ul style="list-style-type: none"> It should be specifically clarified that Investment in SMEs listed/ getting listed on SME platform could be made by all AIFs and not only SME Funds Provisions of clause of 12A¹, inserted vide Amendments to VC Fund Regulations, should continue to be applicable <i>"The venture capital fund may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making under Chapter XA of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and the provisions of regulation 12 shall not apply in case of acquisition or sale of securities pursuant to such subscription or market making."</i> Similarly, it should also be clarified that all AIFs could act as nominated investors on the SME platform as provided in ICDR CH XA for supporting underwriting and market making operations.
140	<p>SME IPOs</p> <ul style="list-style-type: none"> All AIFs may be incentivised to carve out a certain portion of their funds for investment in SME IPOs (say 10%) and also secondary market, to enhance liquidity on this platform.
141	<p>Position on short sales may be outlined</p>
142	<p>Put and call options</p> <p>Some recent Indian judicial decisions have cast doubts on the enforcement of shareholders' agreements and 'put' and 'call' option structures, which form the bedrock of protection for a financial investor. The AIF regulations could</p>

	provide an opportunity to demystify that 'put' and 'call' option structures in relation to public unlisted and private companies are enforceable and not unlawful under the Securities Contract Regulation Act 1956 (as amended).	
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S. Fund raising by AIFs/ Investment in AIFs

Sr. No	Comment	By	SEBI comments
143	<p><i>To reduce minimum investment amount in AIF to Rs. 25/ Rs. 50 lakhs</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To reduce minimum investment amount of Rs. 1 cr to Rs. 25 L/ Rs. 50 L • To keep the amount as Rs. 1 cr for institutions & but Rs. 50 L/25L for individuals 		The details have been excised for reasons of confidentiality.
144	<p><i>To reduce minimum investment amount in AIF to Rs. 10 lakhs/ Retain existing amount of Rs. 5 lakhs</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To reduce minimum investment amount of Rs. 1 cr to Rs. 10 L • To retain existing limit of 5L to allow retail into regulated sector 		
145	<i>To remove minimum investment of 0.1% of the fund size</i>		
146	<i>To remove maximum number of investors of 1000</i>		
147	<p><i>Minimum investment limit should be exempt for the employees, directors, officers of the VCF and AMC</i></p> <p>Similar provisions are present in VCF Regulations</p>		
148	<p><i>Minimum investment amount to link to commitment and not value</i></p> <p>"value" of not less than one crore should be tied to "commitment" and not value since amount is raised in draw downs.</p>		
149	<i>Minimum Size of units</i>		

	<p>Comments:-</p> <ul style="list-style-type: none"> • To be reduced from Rs. 10 lakhs to Rs. 5 lakhs • To be reduced from Rs. 10 lakhs to Rs. 10000 for VCFs since lower drawdowns in case of VCFs may result in small units being issued • In case of company/LLP, to reduce the unit size restriction to 5 lacs or lower • To remove clause
150	<p><i>To allow investors other than individuals and corporate</i></p> <p>To allow sophisticated investors such as family offices, investment trusts, HUFs, charitable foundations, trusts, private foundation institutions to invest apart from HNIs and corporate</p>
151	<p><i>Limiting number of shareholders/partners in a company/ LLP set up as an AIF to 50</i></p> <p>Comments:-</p> <ul style="list-style-type: none"> • To clarify whether this means in cases where the number >50, the entity should come as a Trust(Looks discriminating in favour of Trust) • To remove the clause since If companies act & LLP act are amended to allow them to be vehicles for broad based funds, SEBI regulation should not be hurdle.
152	<p><u>Clause:- AIF shall not solicit or collect money or fund from public or any retail investors through issue of prospectus or offer documents or advertisement-</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> • To Strengthen Clause on Advertisements -restrict use of puffed up brochures, websites, television, print media or billboards. Only Prospectus and a presentation can be used.

	<ul style="list-style-type: none"> • To remove ‘through issue of prospectus or offer documents or advertisement’ 	
153	<p><u>Clause:- 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-</u></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove clause • If clause retained, Investors must have redemption rights <ul style="list-style-type: none"> (i) Make an exception for “permitted transfers”; and, (ii) Permit transfers after the lock-in period to any person or entity that would have been able to subscribe in the fund initially • To allow free transferability amongst institutional investors and HNIs • To allow prospectus to spell out redemption rights allowing not just a period determined at the inception of the fund but to set out redemption cycles or allow suspension to be triggered by specified factors. • In addition to the fund allowing redemptions, to allow a mechanism for the investor to redeem where required for extraordinary reasons such as person liabilities or death. • Redemption to be at the end of the fund life. Alternatively the fund can either buy-back or distribute on exit of an investment • Wordings to be changed to provide that transfers will be restricted 	
154	<u>To permit raising of funds through grants or donations</u>	The details have been excised for reasons of confidentiality.
155	<u>No clear guidelines on borrowings by AIF</u> All AIFs must be allowed to borrow and take working capital loans.	
156	<u>Clarification on types of instruments</u>	

	<i>through which an AIF can raise funds</i>	
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T. Fund size

Sr. No	Comment	By	SEBI comments
157	<p><i>Minimum fund size of Rs. 20 crore</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove minimum fund size of Rs. 20 cr • To reduce it to Rs. 5 cr like currently under VCF Regulations 		The details have been excised for reasons of confidentiality.
158	<p><i>Increase in fund size allowed only upto 25%</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To delete the clause • To allow size to be increased beyond 25% • Increase in size to be disclosure based & to be stated upfront in the info memorandum and not restricted • To allow to mention a certain amount below which if raised, the fund will be aborted • To require only intimation in case of increase • To be at the discretion of the investors & 75% approval may be required if required • Upto 25% increase could be by intimation to SEBI & >25% must be allowed after notifying SEBI 		

U. Schemes

Sr. No	Comment	By	SEBI comments
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159	<p><i>To allow more than one scheme under an AIF</i></p>	<p>The details have been excised for reasons of confidentiality.</p>
160	<p><i>Flexibility across strategies/ sectors</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To allow registration of a Fund under more than one category • AIFs could be allowed to retain the flexibility to invest 40 % of the Fund corpus across strategies and in the event the LP's with a 75% majority decide to change the investment strategy at any point of the Fund life , the same can be a matter of intimation to SEBI. • <i>To permit the AIF to follow alternate strategy (apart from the categories provided) to the extent of 33.33% of its corpus</i> 	
161	<p><i>Change in category</i></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To allow change in category • May be subjected to SEBI approval 	

V. Transparency/ Disclosures/ General Obligations

Sr. No	Comment	By	SEBI comments
162	<p>Clause:- Chapter V, Regulation 27(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</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To change 'material' to 'willful' • To remove clause 		The details have been excised for reasons of confidentiality.
163	<p>Systemic risk information</p> <p>Comments:-</p> <ul style="list-style-type: none"> • Periodicity of information to be mentioned • Regulation 26 (1) be made consistent with Regulation 32 (1) and the obligation of the AIF to submit information for systemic risk purposes to SEBI should be limited to cases when SEBI specifically asks for such information from the AIF. 		
164	<p>Clause:- Annual reports of AIF shall include portfolio company and fund information on material risks and how they are managed-</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To remove the clause since it is not possible to get such information from investee companies all the time • This should be a part of a separate document and not the annual report since annual report is required to be filed with RoC and becomes public and would contain confidential info • To revise to 'AIF shall provide summary of financial, risk management, operational, portfolio, and transactional information regarding its portfolio' 		
165	<p>Clause:- 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.-</p> <p>Comments:-</p>		

	<ul style="list-style-type: none"> • To remove clause since such information not available for unlisted companies • To change frequency to half yearly & provide 90 days after half year to submit • To change 45 to 60 days • To change to a summary or synopsis instead of detailed information • To add 'where available and where permitted by portfolio companies' 	
166	<p><u>Clause:- An AIF shall lay down procedure for resolution of disputes such as through mediation, conciliation or arbitration-</u></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Unclear whether recommendary or compulsory • To remove the clause 	
167	<p><u>Clause:- The Board may at any time call for any information from AIF,, lender with respect to any matter relating to its activity as an AIF....-</u></p> <p><u>Comments:-</u></p> <ul style="list-style-type: none"> • Unclear as to why lender is covered • To add a new provision under Regulation 32 as provided below: 32(3) <i>The Board shall treat any information furnished under this regulation as confidential.</i> 	
168	<p><u>To require Information memorandum to be certified by an Independent CA</u></p>	
169	<p><u>To require the books of account to be audited yearly by qualified auditor</u></p>	
170	<p><u>To require the client accounts of the manager to be audited annually by an independent CA</u></p>	
171	<p><u>Right to appoint CA to audit books</u></p> <p>The client may appoint a CA to audit the books of the manager relating to his transactions and the manager shall co-operate with such chartered accountant in course of the audit.</p>	
172	<p><u>Clause:- AIF shall provide financial information for the portfolio companies and Fund information at the end of each year (within 90 days of the year-end) to investors.-</u></p>	

	<p>Comments:-</p> <ul style="list-style-type: none"> • To change frequency to 120/ 180/ 210/ 270 days since it takes 90 days to get audited report and 30 days to compile • To add 'where available and where permitted by portfolio companies' 	
173	<p>Clause:- AIF shall inform the Board in case of any change in the sponsor, manager or designated partners.-</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To change 'inform' to approval' • To provide clarity as to what changes are to be informed 	
174	<p>Clause:- In case of change of control of sponsor or fund manager, prior approval from the Board shall be taken by the AIF-</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To replace the word 'prior approval' with 'inform'; • There may be a condition of prior approval of at least 75% investors. investors should have the power to remove an underperforming manager promptly, without being required to await approval from a regulatory authority • To remove clause • To change to 'In case of change of control of manager, shall lead to suspension of the investment period unless reinstated by consent of 75% of the investors present and voting in a meeting of the investors or through postal ballot or by voting through electronic means' 	
175	<p>Clause:- All fees (i.e., transaction, financing, monitoring, management, redemption, etc.) generated by the manager or designated partner shall be periodically disclosed to investors.-</p> <p>Comments:-</p> <p>The word "generated" may be replaced with "charged". Expense ratio could be disclosed instead of disclosing the actual fees generated.</p>	

176	<p>Standard disclosure documents would be provided by the respective industry associations-</p> <p>Comments:-</p> <p>To clarify as to</p> <ul style="list-style-type: none"> • Which would be Industry associations • Who would the Industry associations comprise of • When would various drafts be provided 	
177	<p><u>Clause:- 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:-</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> • This should exclude change of ownership in the investors or unit holders to protect confidentiality • This could potentially be a very long list of disclosures – for example, if the Sponsor is a listed company, this could potentially require every share transfer on the exchanges. This requirement needs to be rationalized to make compliance not unusually onerous for the fund and the information pertinent for the investors. • SEBI may consider confining the disclosure of changes to change in control of sponsor, fund manager and the investee company 	
178	<p>Confidentiality</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To make allowances for information that investment managers may need to keep confidential from their investors or their competitors, i.e., information that is subject to confidentiality agreements or similar restrictions intended to protect the sponsor's business or the investee company's business from competitors • Fund managers be allowed to honor requests for confidentiality from individual investors 	

179	<p>Avoidance of Conflict of interest</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To delete the clause • To require disclosure of conflicts of interest, rather than requiring avoidance It can sometimes be beneficial for a fund to • Change word 'avoidance' to 'mitigation' 	
180	<p><u>Clause:- The manager, sponsor or designated partner shall provide estimates of quarterly projections of capital calls and distributions</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> • This should be modified to say that the fund should disclose up-front the commitment time period for fresh investments • Remove clause • Make it half yearly • SEBI may consider revising the Regulation to provide for disclosure of final closing date, commitment period, and periodicity of distribution in the fund documents 	
181	<p><i>Disclosure of brokerage</i></p> <p>Comments:-</p> <p>Fund Managers should disclose the brokerage / commission rates in their disclosure documents and should always strive to negotiate lower brokerage with brokers or else brokerage costs should be in line with market rates. Often times, Hedge Fund Managers, would pay a marginally higher brokerage to a broker who would introduce potential clients to them and also help in marketing the fund to their Wealth Management clients. Any such costs should be borne by the Fund Manager and should not be hidden in the brokerage which is charged directly to the fund.</p>	
182	<p><i>Onus of disclosure to be on Manager/ sponsor and not the AIF</i></p>	
183	<p><i>Requirement for disclosure of fund manager's investment in the fund</i></p> <ul style="list-style-type: none"> • Fund managers should disclose their investment in the fund to their clients in all cases. • Funds that permit managers' investments need strong internal controls like those 	

	described in the Asset Manager Code of Professional Conduct.	
184	Transparency to public There should be no obligation of AIF transparency to the general market.	
185	Records to be maintained for a period of five years after the winding up of the fund <u>Comments:-</u> <ul style="list-style-type: none"> • To remove clause • To clarify that the onus to maintain the requisite records vests with the Sponsor or Manager 	
186	Fiduciary capacity of sponsor and manager and disclosure of conflicts of interests <u>Comments:-</u> <ul style="list-style-type: none"> • Add 'to the investors' after 'conflicts of interest' • While conflicts of interest should properly be disclosed, the Manager should not be required to act in a fiduciary capacity in respect of investors. • The reference to disclosing conflicts of interest "as and when they arise" should be deleted. 	
187	To remove requirement to review policies and procedures and their implementation on a regular basis	

W. Custodian

Sr. No	Comment	By	SEBI comments
188	Requirement of custodian if AUM is over INR 5 billion. <u>Comments:-</u> <ul style="list-style-type: none"> • To change 'AUM' to investible corpus/ investments • To remove AUM criteria, • To require all AIFs to have custodian • To change to "The Board of AIF shall appoint 		The details have been excised for reasons of confidentiality.

	<p>a custodian and an administrator for the Fund”</p> <ul style="list-style-type: none"> • A custodian should only be required where the AIF holds securities with a value in excess of a stated amount • The requirement regarding the appointment of a custodian and the services that it can offer are not set out in any detail. This should be clarified. 	
189	<p>Overseas Custodians</p> <ul style="list-style-type: none"> • Would the criteria for a custodian differ from the current custody rules, can it be offshore, can it offer leverage? • If yes, the regulations may permit the AIF to appoint overseas custodians /leverage overseas and utilize the services of offshore brokers etc. 	

X. Typing/ Drafting errors

Sr. No	Comment	By	SEBI comments
190	<p>Typing/ Drafting errors</p> <p>Comments:-</p> <ul style="list-style-type: none"> • In line 3, it should be “sub-regulation 3 of regulation 4” instead of “sub-regulation 2 of regulation 4” as the categories of funds are mentioned in “sub-regulation 3 of the regulation 4”. • (b) Regulation 13(1)(g) (iii) Activities not permitted and under Industrial Policy of Government of India. The underlined word “and” may be deleted. 		The details have been excised for reasons of confidentiality.
191	<p>To delete Reg 7 (1) (c), (d) & (e) -</p> <p>(c) has any past experience in the business of buying, selling or dealing in securities or managing assets.</p> <p>(d) is a fit and proper person;</p> <p>(e) satisfies the eligibility criteria specified in sub-regulation (1) of Reg 5</p> <p>which is a repetition of aspects already considered in Reg 5</p>		

Y. Others

Sr. No	Comment	By	SEBI comments
192	<p><i>Existing unregistered funds</i></p> <p>Comments:-</p> <ul style="list-style-type: none"> • Grandfathering to be extended like for current VCFs and PMS to all existing pooling vehicles which may not satisfy the criteria of the Regulations • The minimum investment of Rs. 1 crore would mean funds who are collecting less than this would be outside the Regulatory ambit • Exemption may be provided to the funds which have completed their fund raising and effectively are in the investment stage (or later, as the case may be). • The funds that have already been closed but do not meet the criterion specified in these Regulations, they may not be granted a registration by SEBI, due to which its existence would be not in compliance with the applicable laws. 		The details have been excised for reasons of confidentiality.
193	<p><i>Accredited/ Qualified investors</i></p> <p>Comments:-</p> <ul style="list-style-type: none"> • To introduce concept of accredited investors (Detailed definitions in various countries given by ICICI Securities) 		

194	<p><i>Listing of AIF units</i></p> <p>Comments:-</p> <ul style="list-style-type: none"> • To Include clear regulations on providing AIFs with the optionality of Listing on any Indian Stock Exchange like for VCFs • Include AIF units as 'securities' under SCRA • Introduce concept of 'Secondaries Fund' as in developed markets which focus on providing liquidity to AIF units & act like a market maker. May be added as a Category of AIF. • To allow transfer of units of fund after lock-in period of 3 years and trading of units of fund to be limited to amongst institutional / HNIs 	
195	<p><i>Valuation</i></p> <p>Comments:-</p> <ul style="list-style-type: none"> • A description of the AIF's valuation procedure and of the pricing methodology for valuing assets, including the methods used in valuing hard-to-value assets should be a mandatory requirement. • Process for valuation of assets and calculation of the net asset value (NAV) should be functionally independent from the portfolio management of the AIF and the remuneration policy of the AIFM and other measures should ensure that conflicts of interest are prevented and that undue influence on the employees is prevented. • Regulations should provide for appointment of an external valuer to perform the valuation function (Details of valuation mechanism in Europe provided) • AIFs should be required to appoint an administrator, independent of the manager or sponsor, to value assets, reconcile between book and custodian holdings and report to investors. 	

196	<p>Setting up of an Independent Committee/Board</p> <p>Comments:-</p> <p>The Regulations should provide for set up of an Advisory Committee by AIFs which:-</p> <ol style="list-style-type: none"> May make decisions on various important governance issues Commercial aspects may be decided by the fund manager with the consent of the Advisory Committee rather than SEBI seeking to regulate the same. May monitor conflict of interest between the AIF and its manager / sponsor May provide consent on any change sought in the investment strategy of the AIF May review the AIF's compliance with its investment objectives May be comprised of investor nominees May also be set up as a Board of Trustees 	
197	<p><u>Clause:- Key-persons shall devote substantially all their business time to the fund.</u></p> <p>Comments:-</p> <ul style="list-style-type: none"> To remove clause To allow fund managers to operate multiple funds To replace the term 'fund' with 'manager'. 	
198	<p>Distributors of AIF products</p> <p>Comments:</p> <ul style="list-style-type: none"> Appropriate regulatory regime may be introduced for regulating the distributors who would be marketing the AIF's products to prospective investors. 	
199	<p>Liability of Investment Advisors</p> <p>To Insert clause:-</p> <ul style="list-style-type: none"> <i>Limiting the liability of Investment Advisors for doing or (as the case may be) failing to do any act or thing by reason of:</i> <i>(i) Any provision of any present or future law</i> 	

	<p><i>or regulation made pursuant thereto;</i></p> <p><i>(ii) Any decree, order or judgment of any court;</i></p> <p><i>(iii) Any request, announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any government (legally or otherwise).</i></p> <ul style="list-style-type: none"> • The proposal is to ensure that Investment Advisors are liable for any such actions. 	
200	<p><i>Executive co-investments</i></p> <p>To clarify whether executive co-investments, i.e., by individual persons within the fund manager or sponsor group, would be counted towards any minimum sponsor commitment, as is the standard market practice in other jurisdictions.</p>	
201	<p><i>Duplication of KYC documentation</i> should be avoided for clients availing Portfolio management, Investment Advisory and investing in Alternative Investment Fund of the same legal entity</p>	
202	<p><i>Whether SEBI has powers to frame such Regulations</i></p> <p>The AIF Regulations are proposed to be made by SEBI pursuant to, inter alia, section 30(2)(c) and section 12(1B) of SEBI Act, 1992 (SEBI Act). Section 12(1B) deals with venture capital funds, collective investment schemes including mutual funds. Therefore, SEBI may consider whether the AIFs not falling under any of the 3 categories specifically identified in the said section could still be regulated by SEBI in the absence of legislative sanction.</p> <p>Even section 30(2)(c) does not provide any legislative sanction for making regulations in the absence of provision under SCRA classifying the units of AIF as securities. For the time being, the status quo in relation to venture capital fund may be maintained.</p>	

203	<p><i>Incentives by other Regulators</i></p> <p>Though IRDA, RBI allows investment in VCFs, RBI rarely gives permission to invest in VCFs and IRDA only allows investment in infra VCFs. PFRDA does not allow investment in VCFs. The Rules need to be more enabling.</p>	
204	<p><i>Provisions relating to transmission of units to nominee or legal heirs of investor should be clearly defined</i></p> <p>SEBI (Mutual Funds) (Second Amendment) Regulations, 2002, provides an option to the Investors to nominate in the Mutual Funds and a clarification that transfer of units to the nominee would be a valid discharge against the legal heirs.</p>	
205	<p><i>Powers to SEBI</i></p> <p>Powers given to SEBI such as power to change leverage or impose restrictions may result in legal uncertainty which may drive out foreign investors</p>	
206	<p><i>Clause:- Board may impose appropriate restriction on investment by AIF in complex structured products without the consent of the investor-</i></p>	
	<p><u>Comments:-</u></p> <ul style="list-style-type: none"> • To remove clause since investors are sophisticated to understand complex products • The clause should apply to only Category III AIFs and not all AIFs • In the event that the Board does impose restrictions, to allow the strategy to be changed (see 13(2) which states that the strategy cannot be changed) or allow an option for the fund to be terminated early if it is no longer viable 	
207	<p><i>Various AIFs under same Group/ sponsor</i></p> <p>To clarify whether the same fund sponsor group can operate various investment businesses under different AIF entities under the same group</p>	

208	<p>Soft dollar arrangements</p> <p>Fund Managers should be barred from making soft dollar arrangements with executing brokers and other affiliates. (“Soft Dollar” Refers to paying a higher commission than could be negotiated for additional services such as research, technology, client introduction etc.”)</p>	
209	<p>Voting mechanism</p> <p>The draft AIF Regulations provide for seeking investors vote for certain decisions, however, the draft AIF Regulations are silent on mechanism for seeking such vote and time period over which such vote has to be obtained</p>	
210	<p>Prime brokers</p> <p>Comments:-</p> <ul style="list-style-type: none"> • To clarify if foreign banks with prime brokerage facilities would be able to operate such services in India for locally based hedge funds. Some guidance on this aspect may be considered in the regulations • Capital requirements to be prescribed for Managers and Prime Brokers (Both AIFMD and Korea have prescribed capital requirements for Managers as well as PBs.) 	
211	<p>KYC norms</p> <p>Comments:-</p> <p>To Introduce KYC norms requiring AIFs to profile the customers (their risk appetite and appropriateness of the fund product that they are buying – eliminate mis-selling) including an understanding of their source of income (anti-money laundering & avoiding illegally sourced funds / terrorist funding).</p>	
212	<p>Clauses Ultra-vires Articles of Association</p> <ul style="list-style-type: none"> • 5% sponsor requirement and to take up unliquidated investments by sponsor would go against Articles of Association 	

213	<p>Compliance Officer</p> <ul style="list-style-type: none">• To make the appointment of a Compliance Officer compulsory for all AIFs.• To provide stringent guidelines on Board of Advisors, Investment Committee and Annual General Meetings for all investors	
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ANNEXURE-C

SECURITIES AND EXCHANGE BOARD OF INDIA (ALTERNATIVE INVESTMENT FUNDS) REGULATIONS, 2012

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SECURITIES AND EXCHANGE BOARD OF INDIA
(Alternative Investment Funds) Regulations, 2012

In exercise of the powers conferred by sub-section (1) of Section 30 read with clause (c) of sub section (2) of Section 11 and sub section 1B 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 Regulations:-

CHAPTER I
PRELIMINARY

Short title and commencement	1	(1) These regulations may be called the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012.
		(2) They shall come into force on such date as may be specified by the Board by notification in the Official Gazette.
Definitions	2	(1) In these regulations, unless the context otherwise requires, <ul style="list-style-type: none">(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992).(b) 'Alternative Investment Funds (AIF)' means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership including a body corporate which:<ul style="list-style-type: none">(i) is a private pooled investment vehicle which collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors; and(ii) is not covered under the SEBI (Mutual Funds) Regulations, 1996, SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of SEBI to regulate fund management activities; and(iii) does not include the following:-<ul style="list-style-type: none">(1) Family Trusts set up by a person for the benefit of 'relatives' as defined

under Companies Act, 1956;

- (2) ESOP Trusts set up under the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme), Guidelines, 1999;
- (3) Employee Welfare Trusts set up by employer for the benefit of employees;
- (4) 'Holding companies' within the meaning of Section 4 of the Companies Act.
- (5) Other special purpose vehicles not established by fund managers, including securitization trusts, regulated under a specific regulatory framework;
- (6) Funds managed by Asset Reconstruction Companies;
- (7) Securitisation Company or Reconstruction Company which is registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 etc.; and
- (8) any such pool of funds which is directly regulated by any other regulator in India.

(c) "Board" means the Securities and Exchange Board of India established under section 3 of the Act.

(d) "Certificate" means a certificate of registration granted by the Board under Regulation 6.

(e) "Change in control" in relation to a company, Limited Liability Partnership and a body corporate, means:

(i) if its shares are listed on any recognized stock exchange, change in control within the meaning of regulation 2(e) of the Securities and Exchange Board of India (Substantial Acquisition of Shares

and Takeovers) Regulations, 2011;

(ii) in any other case, change in the controlling interest in the body corporate;

Explanation.— For the purpose of sub-clause (ii), the expression “controlling interest” means an interest, whether direct or indirect, to the extent of at least fifty one percent of voting rights in the body corporate.

- (a) “Manager” means any person or entity who is appointed by the Fund to manage its investments by whatever name called and may also be same as the sponsor of the Fund.
- (b) "Associate company" means a company in which a director or trustee or sponsor or manager of the Alternative Investment fund holds either individually or collectively, equity shares in excess of 15% of its paid-up equity share capital.
- (c) "company" means a company incorporated under the Companies Act, 1956.
- (d) "economic offence" means an offence to which the Economic Offences (Limitation of Prosecutions) Act, 1974 applies for the time being.
- (e) 'equity linked instruments' includes instruments convertible into equity shares or share warrants, preference shares, debentures compulsorily or optionally convertible into equity.
- (f) "Form" means any of the forms set out in the First Schedule.
- (g) "inspecting or investigating officer" means an inspecting or investigation officer appointed by the Board under Regulation 30 of these Regulations..
- (h) "investee company" means any company, special purpose vehicle or entity in which an AIF makes an investment.
- (i) "investible funds" means corpus of the fund net of estimated expenditure for administration and management of the fund.
- (j) “Corpus” means the total amount of funds committed by investors to the Alternative Investment Fund by way of a written contract or any such document as on a particular date.

(k) "Schedule" means a schedule annexed to these regulations.

(l) "trust" means a trust established under the Indian Trusts Act, 1882 or under an Act of Parliament or State Legislation.

(m) "unit" means beneficial interest of the investors in the scheme or fund floated by trust or company or a body corporate registered as an Alternative Investment Fund under these Regulations.

(n) "foreign company" means a foreign company within meaning of section 591 of the Companies Act, 1956.

(o) "venture capital undertaking" means a domestic company:

- (i) whose shares are not listed on a recognised stock exchange in India;
- (ii) which is engaged in the business for providing services, production or manufacture of article or things and does not include following activities or sectors:
 - (1) Non-Banking Financial Companies
 - (2) Gold Financing
 - (3) Activities not permitted under industrial policy of Government of India
 - (4) Any other activity which may be specified by the Board in consultation with Government of India from time to time

(p) "Sponsor" means any person or persons who set up the Alternative Investment Fund either as a Trust or a Company or a Limited Liability Partnership or a body corporate and includes promoter in case of a company and designated partner in case of a Limited Liability Partnership and brings in the sponsor contribution.

(q) "Category I AIF" means those Alternative Investment Funds which are generally stated to have positive spillover effects on economy and which the government or regulators consider as

socially desirable. Securities and Exchange Board of India or Government of India or other regulators in India might consider providing incentives or concessions for the funds in this category which shall include Venture Capital Funds, SME Funds, Social Venture Funds and Infrastructure Funds or as may be specified.

- (r) "Category II AIF" means those Alternative Investment Funds for which no specific incentives or concessions are given by the government or any other Regulator; which shall not undertake leverage other than to meet day-to-day operational requirements and as permitted in these Regulations; and which shall include Private Equity Funds and Debt Funds and any funds that are not classified as either category I or category III AIFs.
- (s) "Category III AIF" means those Alternative Investment Funds which may employ leverage or complex trading strategies and are generally believed to have negative externalities such as exacerbating systemic risk and which shall include hedge funds.
- (t) "Private Equity Fund" means an Alternative Investment Fund which invests in primarily equity or equity linked instruments of listed or unlisted companies or body corporate according to the stated objective of the fund.
- (u) "Debt Fund" means an Alternative Investment Fund which invests primarily in debt securities of listed or unlisted companies according to the stated objectives of the Fund.
- (v) "SME Fund" means an Alternative Investment Fund which invests primarily in unlisted securities of small and medium enterprises (SME) in manufacturing and service sectors or securities of those SMEs which are listed or proposed to be listed in the SME exchange or SME segment of an exchange.
- (w) "Small and Medium Enterprises (SME)" shall have the meaning as assigned to it by Government of India or Reserve Bank of India from time to time;
- (x) "Venture Capital Fund" means an Alternative

Investment Fund which invests primarily in unlisted securities of start-ups or new venture capital undertakings or emerging or early-stage venture capital undertakings mainly involved in new or unproven products, new services, new technology or new business model.

(y) "Social Venture Fund" means an Alternative Investment Fund which invests primarily in securities or units of Social Ventures and which satisfies social performance norms laid down by the fund and whose investors may agree to receive restricted or muted returns.

(z) "Social Venture" means a trust, society or company formed with the purpose of promoting social welfare or solving social problems or providing social benefits and includes:

(i) Public Charitable Trusts registered with Charity Commissioner

(ii) societies registered for charitable purposes or for promotion of science, literature, or fine arts

(iii) Company registered under Section 25 of Indian Companies Act, 1956

(iv) Micro Finance Institutions

(aa) "Infrastructure Fund" means an Alternative Investment Fund which invests primarily in unlisted securities or listed debt or securitized debt instruments of companies engaged in infrastructure or in SPVs formed for the purpose of investing in infrastructure projects.

Explanation:- 'Infrastructure' shall be as defined by the government of India from time to time.

(bb) "SEBI" means Securities and Exchange Board of India.

(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 The Limited Liability Partnership Act, 2008 or the Indian Trusts Act, 1882, or any statutory modification or re-enactment thereof, or any other SEBI Regulations shall have the same meaning as have been assigned to them

by or under those enactments or Regulations.

CHAPTER II

REGISTRATION OF ALTERNATIVE INVESTMENT FUNDS

Registration of Alternative Investment Funds

3 (1) On and from the commencement of these regulations, no entity or person shall act as an Alternative Investment Fund unless it has obtained a certificate of registration from the Board.

(2) An existing fund that is not registered with SEBI and falling within the definition of Alternative Investment Fund acting as such since 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 (6) with the approval of its 66.67% investors by value within the said period of six months, till the disposal of such application.

Provided that the Board, in special cases, may extend the said period up to a maximum of twelve months from the date of such commencement.

Provided further that whereas existing schemes will be allowed to complete their agreed tenure, such funds may not raise any fresh moneys till registration is granted..

Provided further that if such existing funds are not able to comply with conditions specified under these Regulations, they may apply for exemption from the Board from strict compliance with these Regulations and the Board upon examination may provide such exemptions or issue such instructions as may be deemed appropriate.

(3) The funds already registered as a Venture Capital Fund under SEBI (Venture Capital Funds) Regulations, 1996 shall continue to be regulated by the said regulations till the existing fund or scheme managed by the fund is wound up. Existing Venture Capital Funds shall not raise any fresh moneys after notification of these Regulations except commitments already made by investors as on date of the notification. Such Venture Capital Funds may also seek re-registration under AIF regulations subject to approval of 66.67% of their investors by value.

(4) Any entity referred to in sub-regulation (1) who fails to

make an application for grant of a certificate within the period specified therein shall cease to carry on any activity as an Alternative Investment Fund.

- (5) An application for grant of certificate shall be made for any of the categories as defined in Regulation 2 (1) (q) (r) or (s) in such format as may be specified by the Board.
- (6) An application for grant of certificate under sub-regulation (1) (2) or (3) shall be made to the Board in Form A and shall be accompanied by a non-refundable application fee as specified in Part A of the Second Schedule to be paid in the manner specified in Part B thereof.
- (7) The Board shall take into account requirements as specified in the Regulations for the purpose of considering grant of registration.
- (8) Without prejudice to the powers of the Board to take any action under the Act or regulations made there under, the certificate of registration shall be valid for the stated or extended tenure of fund as specified in the information memorandum.
- (9) The Board may, in the interest of the investors, issue directions with regard to the transfer of records, documents or securities or disposal of investments relating to its activities as an Alternative Investment Fund.
- (10) The Board may, in order to protect the interests of investors, appoint any person to take charge of records, documents, securities and for this purpose, also determine the terms and conditions of such an appointment.

Eligibility Criteria

4 For the purpose of the grant of certificate to an applicant, the Board shall consider the following conditions for eligibility, namely:-

- (1) The memorandum of association in case of a company; or the Trust Deed in case of a Trust; or the Partnership deed in case of a Limited Liability Partnership has its main objective as carrying on the activity that will be consistent with the category of Alternative Investment Fund it wants to get registered as.
- (2) The applicant is prohibited by its memorandum and articles of association or trust deed or partnership deed

from making an invitation to the public to subscribe to its securities.

- (3) In case the applicant is a Trust, the instrument of trust is in the form of a deed and has been duly registered under the provisions of the Indian Registration Act, 1908.
- (4) In case the applicant is a Limited Liability Partnership, the partnership deed has been duly registered under the provisions of the LLP Act, 2008.
- (5) in case the applicant is a body corporate, it is set up or established under the laws of the Central or State Legislature and is permitted to carry on the activities that will be consistent with the category of Alternative Investment Fund it wants to get registered as.
- (6) its directors or employees or sponsors are not involved in any proceedings connected with the violation of securities market laws, Rules and Regulations which may have an adverse bearing on the business of the applicant; and has not at any time been convicted of any offence involving moral turpitude or any economic offence.
- (7) the applicant and sponsor is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.
- (8) the key investment team of the manager of Alternative Investment Fund has adequate experience, with at least one key personnel having not less than five years experience, in managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling & dealing of securities or other financial assets and has relevant professional qualification.
- (9) the manager or sponsor has the necessary infrastructure and manpower to effectively discharge its activities.
- (10) the applicant has clearly described at the time of registration the investment objective, the targeted investors, proposed size of the fund, investment style or strategy and proposed term of the fund.
- (11) whether the applicant or any entity established by the sponsor has earlier been refused registration by the Board.

Furnishing of information, clarification, etc.	5	(1) The Board may require the applicant to furnish any such further information or clarifications regarding the sponsor or manager or nature of the fund or fund management activities or any such matter connected thereto to consider the application for grant of a certificate or after registration thereon. (2) If required by the Board, the applicant or the sponsor or manager shall appear before the Board for personal representation.
Procedure for grant of Certificate	6	(1) The Board may grant certificate for any specific category of Alternative Investment Fund, if it is satisfied that the applicant fulfills the requirements as specified in the Regulations and has paid registration fee as specified in the Second Schedule. (2) The Board shall, on receipt of the registration fee, grant a certificate of registration in Form B. (3) The registration may be granted with such condition as may be deemed appropriate by the Board.
Conditions of certificate	7	(1) The certificate granted under Regulation 6 shall be inter-alia, subject to the following conditions, namely: - (a) the Alternative Investment Fund shall abide by the provisions of the Act, and these regulations. (b) the Alternative Investment Fund shall not carry on any other activity other than permitted activities. (c) the Alternative Investment Fund shall forthwith inform the Board in writing if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any change in the information already submitted. (2) An Alternative Investment Fund which has been granted registration under a particular category cannot change its category subsequent to registration except with the approval of the Board. (3)
Procedure where	8	(1) After considering an application made under regulation 3, if the Board is of the opinion that a certificate should

registration is refused

not be granted, it may reject the application after giving the applicant a reasonable opportunity of being heard.

- (2) The decision of the Board to reject the application shall be communicated to the applicant within thirty days.
- (3) Where an application for a certificate is rejected by the Board, the applicant shall cease to carry on any activity as an Alternative Investment Fund, 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 Alternative Investment Fund shall state investment strategy, investment purpose and its business model in its information memorandum to the investors.

(2) Any material alteration to the fund strategy can be made with the consent of atleast 66.66% of unit holders by value of their investment in the Alternative Investment Fund.

Investment in Alternative Investment Fund

10 All Alternative Investment Funds shall be subject to the following conditions:-

(1) The fund may raise moneys from any investor whether Indian, foreign or non-resident Indians by way of issue of units.

(2) The fund shall have minimum corpus of Rupees twenty crore.

(3) The Alternative Investment Fund shall not accept from an investor an investment of value less than rupees one crore. ;

Provided that nothing contained in sub-regulation (3) shall apply to investors who are employees or directors of the Alternative Investment Fund or the manager for whom the value of minimum investment shall be rupees twenty five lakhs.

(4) The manager or sponsor shall have a continuing interest in the Alternative Investment Fund of not less than 2.5% of the initial corpus or Rs.5 crore whichever is lower and

such interest shall not be through the waiver of management fees.

- (5) The manager or sponsor shall disclose their investment in the fund to the investors of the Alternative Investment Fund.
- (6) The fund or any scheme of the fund shall not have more than 1000 investors.
- (7) The fund shall not solicit or collect funds from the public.

Information Memorandum

11 (1) The fund shall raise funds through private placement by issue of information memorandum or placement memorandum, by whatever name called.

(2) Such information or placement memorandum as specified in sub Regulation (1) above shall contain all material information about itself, its business, background of key investment personnel, targeted investors, fees charged, tenure of the scheme, conditions or limits on redemption, investment strategy, risk management tools and parameters employed, key service providers, conflict of interest and procedures to identify and address them, disciplinary history, the terms and conditions on which it offers investment services, its affiliations with other intermediaries, manner of winding up of the scheme and fund and such other information as is necessary for the investor to take an informed decision on whether to avail its services.

Tenure

12 (1) Category I AIF and Category II AIF shall be close ended and the tenure of fund shall be determined at the time of application subject to sub-regulation (2) of this regulation.

(2) Category I and II AIF shall have a minimum tenure of 3 years.

(3) Category III AIF may be open ended or close ended.

(4) Extension of the tenure of the close ended fund may be permitted up to 2 years subject to approval of 66.66% of the unit holders by value of their investment in the Alternative Investment Fund.

(5) In the absence of consent of unit holders, the fund shall fully liquidate within one year following expiration of the fund tenure.

Schemes	13	(1) The fund may launch schemes subject to filing of Information Memorandum with the Board. (2) Such Information Memorandum shall be filed with SEBI thirty days prior to launch of scheme along with the fees as specified in the Second Schedule. (3) The Board may communicate its comments, if any, to the applicant prior to launch of the Scheme. The applicant shall incorporate the comments in Information Memorandum prior to launch of scheme.
Listing	14	(1) Units of AIF may be listed on stock exchange subject to a minimum tradable lot of Rs. One Crore. (2) AIF shall not raise funds through Stock Exchange mechanism.
General Investment Conditions	15	(1) All Alternative Investment Funds shall be subject to the following investment conditions:- (a) The fund or sponsors or managers shall not engage in asset stripping, i.e. selling individual assets of Investee Company for making a profit and to the detriment of the investee company. (b) Alternative Investment Fund may invest in securities of foreign companies subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and the Board from time to time. (c) Co-investment in an investee company by a manager or sponsor shall not be on terms more favourable than those offered to the AIF. (d) Alternative Investment Fund shall not invest more than 25% of the investible funds in one Investee Company. (e) Alternative Investment Fund shall not invest in associated companies. (f) Un-invested portion of the corpus may be invested in liquid mutual funds or bank deposits or other liquid assets of higher quality such as Treasury bills, CBLOs, Commercial Papers, Certificates of Deposits, etc. till deployment of funds as per the investment objective. (g) Alternative Investment Fund may act as Nominated

Investor as specified in Regulation 106N (b) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.

**Conditions for
Category I AIFs** 16

(2) Notwithstanding the conditions as specified in sub-regulation (1), the Board may specify additional requirements or criteria for Alternative Investment Funds or for specific category thereof.

(1) The following investment conditions shall apply to all Category I AIFs:-

(a) Category I AIF may invest in companies or in special purpose vehicles or in Limited Liability Partnerships or in units of other Alternative Investment Funds as specified in this Regulation.

(b) Funds of Category I AIF may invest in units of Category I AIF of same sub-category. The investment conditions as specified in sub-regulations (2), (3), (4), (5) or (6) of Regulation 16 shall not be applicable to investments by such funds.

Provided that such funds shall not invest in units of other Fund of Funds.

(c) Category I funds shall not borrow funds directly or indirectly or undertake any leverage except for meeting temporary funding requirements for not more than seven days, on not more than twelve occasions in a year and not more than five percent of the corpus.

(2) The following investment conditions shall apply to Venture Capital Funds in addition to Regulation 16 (1) above:-

(a) At least 66.66% of the investible funds shall be invested in unlisted equity shares or equity linked instruments of the investee company or in companies listed or proposed to be listed on the

SME exchange or SME segment of an exchange.

(b) Not more than 33.33% of the investible funds shall be invested in:

- i. subscription to initial public offer of a venture capital undertaking or investee company whose shares are proposed to be listed;
- ii. debt or debt instrument of a venture capital undertaking or investee company in which the fund has already made an investment by way of equity;
- iii. Preferential allotment of equity shares or equity linked instruments of a listed company subject to lock in period of one year;
- iv. the equity shares or equity linked instruments of a financially weak company or a sick industrial company whose shares are listed;

Explanation – For the purpose of these regulations, “a financially weak company” means a company, which has at the end of the previous financial year accumulated losses, which has resulted in erosion of more than 50% but less than 100% of its net worth as at the beginning of the previous financial year.

- v. Special Purpose Vehicles which are created by the fund for the purpose of facilitating or promoting investment in accordance with these Regulations.

Explanation – The investment conditions and restrictions stipulated in Regulations 16(1) and 16(2) shall be achieved by the fund by the end of its life cycle.

(c) Such funds may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making under Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and the

provisions of Regulations 16 (2) (a) and (b) shall not apply in case of acquisition or sale of securities pursuant to such subscription or market making.

(d) Such funds shall be exempt from Regulation 3 and 3A of SEBI (Prohibition of Insider Trading) Regulations, 1992 in respect of investment in companies listed on SME Exchange pursuant to due diligence of such companies subject to the following conditions:

- (i) the fund shall disclose any acquisition or dealing in securities pursuant to such due-diligence, within two working days of such acquisition or dealing, to the stock exchanges where the investee company is listed;
- (ii) such investment shall be locked in for a period of one year from the date of investment

(3) The following conditions shall apply to SME Funds in addition to Regulation 16 (1) above:

(a) Atleast 75% of the investible funds shall be invested in unlisted securities of Small and Medium Enterprises (SMEs) or in companies listed or proposed to be listed on the SME exchange or SME segment of an exchange.

(b) Such funds may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making under Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.

(c) Such funds shall be exempt from Regulation 3 and 3A of SEBI (Prohibition of Insider Trading) Regulations, 1992 in respect of investment in companies listed on SME Exchange pursuant to due diligence of such companies subject to the following conditions:

- (i) the fund shall disclose any acquisition or dealing in securities pursuant to such due-diligence, within two working days of such

acquisition or dealing, to the stock exchanges where the investee company is listed;

(ii) such investment shall be locked in for a period of one year from the date of investment.

(4) The following conditions shall apply to Social Venture Funds in addition to Regulation 16 (1) above:

- (a) Atleast 75% of the investible funds shall be invested in unlisted securities or units of Social Ventures.
- (b) Such funds may accept grants, provided that such utilization of such grants shall be restricted to Regulation 16 (4) (a) above.
- (c) Such funds may give grants to social ventures, provided that appropriate disclosure is made in the placement memorandum.
- (d) Such funds may accept muted returns for their investors i.e. they may accept returns on their investments which may be lower than prevailing returns for similar investments.

(5) The following conditions shall apply to Infrastructure Funds in addition to Regulation 16 (1) above:

- (a) Atleast 75% of the investible funds shall be invested in unlisted securities or units of companies engaged in infrastructure or special Purpose Vehicles formed for the purpose of investing in infrastructure projects.
- (b) Notwithstanding clause (a) of sub-regulation (5) above, such funds may also invest in listed securitized debt instruments or listed debt securities of companies engaged in infrastructure or special Purpose Vehicles formed for the purpose of investing in infrastructure projects

(i)

Conditions for 17 The following investment conditions shall apply to Category

Category II AIF**II AIF:-**

- (1) Category II funds may invest in equity or equity linked instruments or debt or debt securities of listed or unlisted companies or in special purpose vehicles or in Limited Liability Partnerships or in units of other Alternative Investment Funds.
- (2) Category II funds investing in units of other AIF shall invest in units of Category I or Category II funds but shall not invest in units of other fund of funds.
- (3) Category II funds may not borrow funds directly or indirectly and shall not engage in leverage except for meeting temporary funding requirements for not more than seven days, not more than twelve occasions in a year and not more than five percent of the corpus.
- (4) Notwithstanding Regulation 17 (2) above, Category II funds may engage in hedging, subject to guidelines as specified by SEBI from time to time.
- (5) Category II funds may enter into an agreement with merchant banker to subscribe to the unsubscribed portion of the issue or to receive or deliver securities in the process of market making under Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and the provisions of Regulations 16 (2) shall not apply in case of acquisition or sale of securities pursuant to such subscription or market making.
- (6) Such funds shall be exempt from Regulation 3 and 3A of SEBI (Prohibition of Insider Trading) Regulations, 1992 in respect of investment in companies listed on SME Exchange pursuant to due diligence of such companies subject to the following conditions:
 - (i) the fund shall disclose any acquisition or dealing in securities pursuant to such due-diligence, within two working days of such acquisition or dealing, to the stock exchanges where the investee company is listed;
 - (ii) such investment shall be locked in for a period of one year from the date of investment

Conditions for 18 The following investment conditions shall apply to Category

Category III AIF**III AIF:-**

(1) Category III funds may leverage or borrow subject to consent from the investors in the fund and subject to a maximum limit, as may be specified by the Board.

Provided that the fund shall disclose information regarding the overall level of leverage employed, the level of leverage arising from borrowing of cash, the level of leverage arising from position held in derivatives or in any complex product and the main source of leverage in their fund to the investors and to the Board periodically, as may be specified by the Board.

(2) Category III funds shall be regulated through issuance of directions regarding areas such as operational standards, conduct of business rules, prudential requirements, and restrictions on redemption, conflict of interest as may be specified by the Board.

**Other
Alternative
Investment
Fund****19**

The Board may lay down framework for Alternative Investment Funds other than the Funds falling in the categories specified in these regulations.

CHAPTER IV

GENERAL OBLIGATIONS AND RESPONSIBILITIES AND TRANSPERANCY

General Obligations	20	(1) All Alternative Investment Funds shall review policies and procedures, and their implementation, on a regular basis, or as a result of business developments, to ensure their continued appropriateness. (2) The sponsor or manager of Alternative Investment Fund shall appoint a SEBI registered custodian for safekeeping of securities of the fund if the corpus of the fund is more than INR 500 crore, provided that the sponsor or manager of a Category III AIF shall appoint such custodian at all times irrespective of the size of corpus of the fund. (3) Alternative Investment Fund shall inform the Board in case of any change in the sponsor, manager or designated partners or any other material change from the information provided by the Alternative Investment Fund at the time of application for registration. (4) In case of change in control of the Fund, sponsor or manager, prior approval from the Board shall be taken by the Alternative Investment Fund. (5) The books of account of the AIF shall be audited annually by a qualified auditor.
Conflict of Interest	21	(1) The sponsor and manager of the Alternative Investment Fund shall act in a fiduciary capacity towards its investors and shall disclose all conflicts of interests as and when they arise or seem likely to the investors. (2) Alternative Investment Funds 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. (3) Managers and sponsors of Alternative Investment Fund shall abide by high level principles on avoidance of conflicts of interest with associated persons, as may be specified by the Board from time to time.
Transparency and	22	All Alternative Investment Funds shall ensure transparency and disclosure of information to investors on the following:

Disclosures

- (1) Financial, risk management, operational, portfolio, and transactional information regarding fund investments shall be disclosed periodically to the investors.
- (2) Any fees ascribed to the manager or sponsor; and any fees charged to the fund or any portfolio company by an associate of the manager or sponsor shall be disclosed periodically to the investors.
- (3) Any inquiries/ legal actions by legal or regulatory bodies in any jurisdiction, as and when occurred.
- (4) Any material contingency or liability arising during the fund's life shall be disclosed, as and when occurred.
- (5) Any breach of a provision of the placement memorandum or agreement made with the investor or any other fund documents, if any, as and when occurred.
- (6) Change in control of the sponsor or manager or investee company.
- (7) Alternative Investment Fund shall provide on an annual basis, within 180 days from the year end, reports to investors including the following information:
 - (a) Financial information of portfolio companies.
 - (b) Material risks and how they are managed. These may include:
 - (i) Concentration risk at fund level.
 - (ii) Foreign exchange risk at fund level.
 - (iii) Leverage risk at fund and portfolio company levels.
 - (iv) Realization risk (i.e. change in exit environment) at fund and portfolio company levels
 - (v) Strategy risk (i.e. change in, or divergence from, investment strategy) at portfolio company level.
 - (vi) Reputation risk at portfolio company level.
 - (vii) Extra-financial risks, including environmental, social and corporate governance risks, at fund and portfolio company level.
- (8) Alternative Investment Fund shall also provide quarterly reports to investors as may be specified in the

		information memorandum within 60 days of end of the quarter.
		(9) Any significant change in key investment team of the fund shall be intimated to all investors.
		(10) Alternative Investment Funds shall provide, when required by the Board, information for systemic risk purposes (including the identification, analysis and mitigation of systemic risks).
Valuation	23	(1) The fund shall provide to investors a description of its valuation procedure and of the pricing methodology for valuing assets. (2) The fund shall ensure that calculation of the net asset value (NAV) is independent from the fund management function of the Alternative Investment Fund. The NAV shall be disclosed at intervals not longer than a quarter. (3) In case of open-ended funds, the Fund shall disclose the net asset value to the investors periodically at intervals not longer than one month.
Obligation of Manager	24	(1) The manager shall be obliged to: (a) Address all investor complaints. (b) Provide to the Board any information sought by Board. (c) Maintain all records as may be specified by the Board. (d) Take all steps to avoid conflict of interest as specified in these regulations. (e) Ensure transparency and disclosure as specified in the Regulations.
Dispute Resolution	25	An Alternative Investment Fund shall lay down procedure for resolution of disputes between the investors, Alternative Investment Fund or managers or designated partner such as through arbitration or any such other mechanism as mutually decided between the investors and the Alternative Investment Fund.
Power to call for information	26	(1) The Board may at any time call for any information from an Alternative Investment Fund or its manager or sponsor or trustee or investor with respect to any matter

		relating to its activity as an Alternative Investment Fund 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	27	<p>(1) The manager or sponsor shall be required to maintain following records describing:</p> <ul style="list-style-type: none"> (a) The assets under the scheme/fund. (b) Valuation policies and practices. (c) Investment strategies. (d) Particulars of investors and their contribution. (e) Rationale for investments made. <p>(2) The records under sub-regulation (1) shall be maintained for a period of five years after the winding up of the fund.</p>
Submission of reports to the Board	28	The Board may at any time call upon the Alternative Investment Fund to file such reports as the Board may desire with regard to the activities carried on by the Alternative Investment Fund.
Winding up	29	<p>(1) An Alternative Investment Fund set up as a trust shall be wound up:</p> <ul style="list-style-type: none"> (a) when the tenure of the fund, mentioned in the placement memorandum is over; or (b) if it is the opinion of the trustees or the trustee company, as the case may be, that the fund shall be wound up in the interests of investors in the units; or (c) if seventy-five per cent of the investors in the fund pass a resolution at a meeting of unitholders that the fund be wound up; or (d) if the Board so directs in the interests of investors. <p>(2) An Alternative Investment Fund set up as a company shall be wound up in accordance with the provisions of the Companies Act, 1956 (1 of 1956).</p> <p>(3) An Alternative Investment Fund set up as a body</p>

corporate shall be wound up in accordance with the provisions of the statute under which it is constituted.

- (4) An Alternative Investment Fund set up as a Limited Liability Partnership shall be wound up in accordance with the provisions of The Limited Liability Partnership Act, 2008.
- (5) The trustees or trustee company of the Alternative Investment Fund or the Board of Directors or designated partners as the case maybe shall intimate the Board and investors of the circumstances leading to the winding up of the Fund.
- (6) On and from the date of intimation under sub-regulation (5) of regulation 29, no further investments shall be made on behalf of the fund so wound up.
- (7) Within three months from the date of intimation under sub-regulation (5) of regulation 29, the assets shall be liquidated, and the proceeds accruing to investors in the fund distributed to them after satisfying all liabilities.
- (8) Notwithstanding anything contained in sub-regulation (7) and subject to the conditions, if any, contained in the placement memorandum or contribution agreement or subscription agreement, as the case may be, in specie distribution of assets of the fund, shall be made by the Alternative Investment Fund at any time, including on winding up of the fund, as per the preference of investors, after obtaining approval of at least 75% of the investors of the fund.

CHAPTER VI

INSPECTION AND INVESTIGATION

Board's right to inspect or investigate	30	(1) The Board may suo motu or upon receipt of information or complaint appoint one or more persons as inspecting or investigating officer to undertake inspection or investigation of the books of account, records and documents relating to an Alternative Investment Fund for any of the following reasons, namely :— <ol style="list-style-type: none">(a) to ensure that the books of account, records and documents are being maintained by the Alternative Investment Fund in the manner specified in these regulations(b) to inspect or investigate into complaints received from investors, clients or any other person, on any matter having a bearing on the activities of the Alternative Investment Fund;(c) to ascertain whether the provisions of the Act and these regulations are being complied with by the Alternative Investment Fund;(d) to inspect or investigate suo motu into the affairs of an Alternative Investment Fund, in the interest of the securities market or in the interest of investors
Notice before inspection or investigation	31	<ol style="list-style-type: none">(1) Before ordering an inspection or investigation under regulation 30, the Board shall give not less than ten days notice to the Alternative Investment Fund.(2) Notwithstanding anything contained in sub-regulation (1) where the Board is satisfied that in the interest of the investors no such notice should be given, it may by an order in writing direct that the inspection or investigation of the affairs of the Alternative Investment Fund be taken up without such notice.(3) During the course of an inspection or investigation, the Alternative Investment Fund against whom the inspection or investigation is being carried out shall be bound to discharge its obligations as provided in regulation 32.

Obligation of Alternative Investment Fund on inspection or investigation	32	<p>(1) It shall be the duty of every officer of the Alternative Investment Fund in respect of whom an inspection or investigation has been ordered under regulation 25 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such Alternative Investment Fund including Manager, if any, to produce to the Investigating or Inspecting Officer such books, accounts and other documents in his custody or control and furnish him with such statements and information as the said Officer may require for the purposes of the investigation or inspection.</p> <p>(2) It shall be the duty of every officer of the Alternative Investment Fund and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the Alternative Investment Fund to give to the Inspecting or Investigating Officer all such assistance and shall extend all such co-operation as may be required in connection with the inspection or investigations and shall furnish such information sought by the Inspecting or Investigating Officer in connection with the inspection or investigation.</p> <p>(3) The Investigating or Inspecting Officer shall, for the purposes of inspection or investigation, have power to examine on oath and record the statement of any employees, directors or person responsible for or connected with the activities of Alternative Investment Fund or any other associate person having relevant information pertaining to such Alternative Investment Fund.</p> <p>(4) The Inspecting or Investigating Officer shall, for the purposes of inspection or investigation, have power to obtain authenticated copies of documents, books, accounts of Alternative Investment Fund, from any person having control or custody of such documents, books or accounts.</p>
Submission of report to the Board	33	<p>The inspecting or investigating officer shall, as soon as possible, on completion of the inspection or investigation submit an inspection or investigation report to the Board:</p> <p>Provided that if directed to do so by the Board, he may submit an interim report.</p>
Communication	34	<p>(1) The Board may after consideration of the investigation or</p>

**of findings, etc.
to the
Alternative
Investment
Fund**

inspection report and after giving reasonable opportunity of hearing to the Alternative Investment Fund or its trustees, directors issue such direction as it deems fit in the interest of securities market or the investors including directions in the nature of :—

- (a) requiring an Alternative Investment Fund not to launch new schemes or raise money from investors for a particular period;
- (b) prohibiting the person concerned from disposing of any of the properties of the fund or scheme acquired in violation of these regulations;
- (c) requiring the person connected to dispose of the assets of the fund or scheme in a manner as may be specified in the directions;
- (d) requiring the person concerned to refund any money or the assets to the concerned investors along with the requisite interest or otherwise, collected under the scheme;
- (e) Prohibiting the person concerned from operating in the capital market or from accessing the capital market for a specified period.

CHAPTER VI

PROCEDURE FOR ACTION IN CASE OF DEFAULT

**Liability for
action in case
of default**

35 (1) An Alternative Investment Fund which—

- (a) contravenes any of the provisions of the Act or these regulations;
- (b) fails to furnish any information relating to its activity as a Alternative Investment Fund as required by the Board;
- (c) furnishes to the Board information which is false or misleading in any material particular;
- (d) does not submit periodic returns or reports as required by the Board;
- (e) does not co-operate in any enquiry, inspection or investigation conducted by the Board;
- (f) fails to resolve the complaints of investors or fails to give a satisfactory reply to the Board in this behalf,

shall be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

(2) Sub-regulation (1) shall not prejudice to the issue of directions or measure under regulation 31 or the operation of sections 11, 11B, 11D, 12(3) 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 36 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 37 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

Repeal and Saving 38 (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 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 SEBI (Alternative Investment Funds) Regulations; 2012.
(b) Any application made to the Board under the SEBI (Venture Capital Funds) Regulations, 1996 and pending before it shall be deemed to have been made under the corresponding provisions of SEBI (Alternative Investment Funds) Regulations, 2012.
(c) All Venture Capital Funds or schemes launched under such Venture Capital Funds prior to date of notification of these Regulations shall continue to be governed by provisions of SEBI (Venture Capital Funds) Regulations, 1996 till the fund or Scheme is wound up.
Provided that such funds shall not raise any fresh funds after notification of SEBI (Alternative Investment Funds) Regulations, 2012 except commitments already made by investors as on date of the notification.

FIRST SCHEDULE-FORM

FORM A

**Securities and Exchange Board of India
(Alternative Investment Funds) Regulations, 2012
See Regulation 3**

Application for Grant of Certificate of Registration as Alternative Investment Fund

**Securities and Exchange Board of India
SEBI Bhavan, C4-A, G Block, Bandra Kurla Complex, Mumbai 400051 - India**

INSTRUCTIONS

1. This form is meant for use by the applicant for grant of certificate of registration as an Alternative Investment Fund.
2. The applicant should complete this form, and submit it, along with all supporting documents to the Board at its head office at Mumbai.
3. This application form should be filled in accordance with these regulations.
4. The application shall be considered by the Board provided it is complete in all respects.
5. All answers must be legible and all the pages must be numbered with signature/stamp on each page of the form.
6. Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form and appropriately numbered.
7. The application must be signed and all signatures must be original.
8. The application must be accompanied by an application fee as specified in the Second Schedule to these regulations.

1. GENERAL INFORMATION

- (a) Name, address of the registered office, address for correspondence, telephone number(s), fax number(s), e-mail address of the applicant.
- (b) Name, direct line number, mobile number and e-mail of the contact person(s)..

- (c) Whether the applicant is a company or trust or Limited Liability Partnership or a body corporate.
- (d) Date and place of incorporation/ establishment.
- (e) Category under which the application is made –
 - 1. Category I AIF- Venture Capital Fund
 - 2. Category I AIF- Social Venture Fund
 - 3. Category I AIF- SME Fund
 - 4. Category I AIF- Infrastructure Fund
 - 5. Category II AIF- Private Equity fund
 - 6. Category II AIF- Debt Fund
 - 7. Category II AIF- Other
 - 8. Category III AIF
- (f) Whether memorandum of association in case of a company; or the Trust Deed in case of a Trust; or the Partnership deed in case of a Limited Liability Partnership or the Constitution in case of a body corporate, has its main objective as the carrying on of the activity of an Alternative Investment Fund; (Enclose relevant extracts from such document).
- (g) In case of the applicant is a company, whether it is prohibited by its memorandum and articles of association from making an invitation to the public to subscribe to its securities; (Enclose relevant extracts from such document).
- (h) Copy of relevant extracts of the document, whichever applicable, which includes the name and address of the parties, object clause as under Regulation 4(1) , :
 - 1. Registered Trust Deed in case the applicant is a Trust.
 - 2. Registered Partnership Deed/ Agreement In case the applicant is a Limited Liability Partnership.
 - 3. Certificate of Incorporation in case application is a company.
 - 4. Relevant Statute/ Law in case the applicant is a body corporate.
- (i) Write up on the activities of the applicant, its shareholding pattern/profile of the directors/ Partners.
- (j) Proof of identity and proof of address of the directors/ partners of the applicant in case the applicant is a company or LLP.
- (k) Copy of the draft information memorandum.
- (l) In case the applicant proposes to register as a Category III AIF, whether the fund shall be open ended or close ended.

- (m) Whether the applicant is registered with SEBI, RBI or any other regulatory authority in any capacity along with the details of its registration.
- (n) Whether any of its group companies (where applicable) is registered with SEBI, RBI or any regulatory authority along with the details of its registration.
- (o) Whether applicant or its holding company (where applicable) is listed on any of the recognized stock exchanges in India. If so, details thereof.

2. DETAILS OF SPONSOR(S), MANAGER, PARTNERS, DIRECTORS, TRUSTEE COMPANY

(a) Details of Sponsor(s)

- i. Specify whether sponsor(s) is/ are:-
 - 1. In case of applicant being a Trust
 - a. individual(s) or
 - b. company(ies) or
 - c. Limited Liability Partnership(s)
 - 2. In case of applicant being a Company
 - a. Individual Promoter(s) or
 - b. promoter company(ies)
 - 3. In case of applicant being an LLP-
 - a. Individual Designated Partner(s) or
 - b. Company(ies) as Designated Partner(s)
 - 4. In case of application being a Body Corporate – Any such person as per the Statute or relevant Act
- ii. Name, address of the registered office (where applicable), address for correspondence, telephone number(s), fax number(s), of the sponsor(s).
- iii. Name, direct line number, mobile number and e-mail of the contact person(s).
- iv. In case of sponsor being a company or Limited Liability Partnership, write up on the past experience of the Sponsor(s), shareholding pattern or Partnership interests, profile of the directors or Partners including professional qualification.
- v. In case of sponsor being individual(s), brief profile of the sponsor including professional qualification.
- vi. Identity proof and address proof of the sponsor/ directors of sponsor/ partners of the sponsor.
- vii. Whether the sponsor or its director(s)/employee(s)/ partner(s) is/are registered with SEBI.

- viii. Details of past experience of the sponsor(s) in managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling and dealing of securities or other financial assets.
- ix. Details of infrastructure and manpower for conducting activities as an Alternative Investment Fund for the applicant.
- x. Whether, the Sponsor has floated Alternative Investment Funds previously, which are registered with SEBI. If yes, details of the same.
- xi. Whether Sponsor or its directors/ Partners were refused a certificate by the Board in the past.
- xii. Whether the Sponsor(s) is/are registered with SEBI, RBI or any other regulatory authority in any capacity. If yes, details of the registration.
- xiii. Whether any of its group companies, if any, are registered with SEBI, RBI or any regulatory authority along with the details of its registration.
- xiv. Whether Sponsor or its holding company, if any, is listed on any of the recognized stock exchanges in India. If so details thereof.

(b) Details of Manager(s)

- i. Whether Manager(s) is individual(s), company(ies) or Limited Liability Partnership(s).
- ii. Name, address of the registered office address for correspondence, telephone number(s), fax number(s), of the Manager(s).
- iii. Name, direct line number, mobile number and e-mail of the contact person(s).
- iv. Identity proof and address proof of the manager/ directors of manager/ partners of the manager.
- v. Write up on the activities of the Manager including past experience in managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling & dealing of securities or other financial assets.
- vi. In case of manager being a company or Limited Liability Partnership, write up on the past experience of the Sponsor(s), shareholding pattern or Partnership interests, profile of the directors or Partners including professional qualification.
- vii. In case of manager being individual(s), brief profile of the manager including professional qualification.

- viii. Details of infrastructure and manpower for conducting activities as an Alternative Investment Fund for the applicant.
- ix. Whether the Manager(s) is/are registered with SEBI, RBI or any other regulatory authority in any capacity, along with the details of registration.
- x. Whether any of its group companies (where applicable) are registered with SEBI, RBI or any regulatory authority along with the details of its registration.
- xi. Brief profile of Key investment Team.

(c) Details of Trustees/ Trustee Company (In case applicant is a Trust)

- i. Whether Trustee is an individual or a Trustee company.
- ii. Name, address of the registered office (where applicable), address for correspondence, telephone number(s), fax number(s), of the Trustees/ Trustee Company.
- iii. Name, direct line number, mobile number and e-mail of the contact person(s).
- iv. Whether the Trustee Company is registered with SEBI, RBI or any other regulatory authority in any capacity along with the details of its registration.
- v. Write up on the activities of the Trustee Company/ Profile of Trustees.
- vi. Shareholding pattern and the write up on profile of the Directors.

3. DETAILS OF BUSINESS MODEL AND STRATEGY

- (a) Investment objective and investment style/ strategy of the fund.
- (b) Detailed business plan
- (c) The target investors
- (d) The target industries/ sectors, if any
- (e) Proposed initial and final corpus
- (f) Amount contributed/ Proposed to be contributed by the sponsor(s) with details of the same
- (g) Proposed fee structure to the sponsor and manager
- (h) Tenure of the fund
- (i) Details of proposed use of leverage in case of Category III AIF

4. DETAILS OF ACTION TAKEN IN THE PAST

- (a) Whether the applicant or Sponsor or its directors/ partners or Manager or its Directors/ Partners or Trustees/ Trustee Company or its directors are/ were involved in any litigation connected with the securities market and any order has/ had been passed against them for violation of securities laws. If yes, provide details.
- (b) Whether the applicant/ sponsor/ Trustee/ Manager or its directors or Partners or employees are / have been involved in any litigation connected with the securities market which may have an adverse bearing on the business of the applicant; or have at any time been convicted of any offence involving moral turpitude or any economic offence; or any order has/ had been passed against them for violation of securities laws. (If Yes, provide details. If No, enclose a declaration to that effect).
- (c) Whether the applicant and sponsor is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008; (Enclose a declaration to that effect).
- (d) Whether applicant/ sponsor/ Trustee/ Manager or its directors or Partners has/ have been refused a certificate by the Board or its/ their certificate has been suspended at any time prior to this application. (If Yes, provide details. If No, enclose a declaration to that effect).

5. DECLARATION STATEMENT (TO BE GIVEN AS BELOW)

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true.

AND we further agree that, we shall notify the Securities and Exchange Board of India immediately any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the Securities and Exchange Board of India Act, 1992, and the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, and Government of India guidelines/instructions as may be announced by the Securities and Exchange Board of India from time to time.

We further agree that as a condition of registration, we shall abide by such operational instructions/directives as may be issued by the Securities and Exchange Board of India from time to time.

For and on behalf of _____
(Name of the applicant)

Authorized signatory
(Signature)

(Name)

Date : _____ **Place :** _____

FORM B
Securities and Exchange Board of India
(Alternative Investment Funds) Regulations, 2012

See regulation 7

Certificate of registration as Alternative Investment Fund

I. In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), read with the regulations made thereunder, the Board hereby grants a certificate of registration to

as an Alternative Investment Fund subject to the conditions specified in the Act and in the regulations made thereunder.

II. The Category of the Fund shall be -
_____.

III. The Registration Number of the Alternative Investment Fund is
IN/AIF/Cat-I(II/III)/_____.

Date :

Place : MUMBAI

By Order
Sd/-

For and on behalf of
Securities and Exchange Board of India

SECOND SCHEDULE
Securities and Exchange Board of India
(Alternative Investment Funds) Regulations, 2012

See regulations ___ and ___

FEES

PART A

AMOUNT TO BE PAID AS FEES

<i>Application fee</i>	Rs. 1,00,000
<i>Registration fee</i>	Rs. 5,00,000
<i>Scheme Fee</i>	Rs. 1,00,000
<i>Re-registration Fee</i>	Rs. 1,00,000

PART B

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