

Amendment to SEBI (Foreign Venture Capital Investor) Regulations, 2000, to streamline the regulatory framework for registration and holdings of Foreign Venture Capital Investors to bring in alignment with Foreign Portfolio Investors

1. Objective

This Board Memorandum proposes to amend SEBI (Foreign Venture Capital Investor) Regulations, 2000 ('FVCI Regulations') to address extant regulatory arbitrage between the SEBI regulated foreign investment routes, viz., FVCIs and FPIs and to streamline the regulatory framework for registration and holdings of Foreign Venture Capital Investors ('FVCIs') and align it with Foreign Portfolio Investors ('FPIs') by -

- 1.1. Delegating processing of registration and post registration applications of FVCIs to Designated Depository Participants ('DDPs');
- 1.2. Aligning the eligibility criteria for registration of FVCIs with that prescribed for FPIs and with the provisions of Prevention of Money Laundering Act, 2002 ('PMLA') and PML (Maintenance of Records) Rules, 2005 ('PMLR');
- 1.3. Mandating renewal of registration of FVCIs;
- 1.4. Revising the application form for registration of FVCIs in line with the above proposals;
- 1.5. **(Withdrawn, hence excised.)**
- 1.6. **(Withdrawn, hence excised.)**

2. Background

- 2.1. FVCI Regulations were notified in the year 2000 to regulate investment activities of an investor incorporated and established outside India, who invests primarily in unlisted securities of Venture Capital Undertakings and units of Venture Capital Funds (VCFs) registered under erstwhile SEBI (Venture Capital Funds) Regulations, 1996. Subsequent to introduction of regulatory framework for Alternative Investment Funds ('AIFs'), FVCIs have been allowed to invest in units of AIFs also.
- 2.2. As on March 31, 2024, a total of 279 FVCIs are registered with SEBI. The number of FVCIs registered with SEBI over the last 5 years are as under:

Financial Year	No. of registered FVCIs
FY 19-20	9
FY 20-21	20
FY 21-22	15
FY 22-23	12
FY 23-24	27
Total	83

2.3. As per the investment data reported by FVCIs as on March 31,2024, the cumulative investments made by FVCIs in investee companies stand at INR 53,922 Crore. The cumulative net investment by FVCIs in investee companies over the last 5 years are, as under:

As on	Cumulative net investments by all FVCIs at the end of the financial year (in INR Crore)
As on March 31, 2020	57,836
As on March 31, 2021	46,802
As on March 31, 2022	45,962
As on March 31, 2023	48,286
As on March 31, 2024	53,922

2.4. As per FVCI Regulations, FVCIs shall invest at least 66.67 percent of the investable funds in unlisted equity shares or equity linked instruments of Venture Capital Undertaking (VCU) or investee company and not more than 33.33 percent of investable funds may be invested by way of -

2.4.1. Subscription to initial public offer of a VCU/investee company whose shares are proposed to be listed;

2.4.2. Debt or debt instrument of a VCU or investee company in which the FVCI has already made an investment by way of equity;

2.4.3. Preferential allotment of equity shares of a listed company subject to lock in period of one year;

2.4.4. Equity shares or equity linked instruments of a financially weak company or a sick industrial company whose shares are listed;

2.4.5. Special purpose vehicles created for the purpose of facilitating or promoting investment in accordance with FVCI Regulations.

An FVCI can also invest its total funds committed into one VCF or AIF.

2.5. Further, investments by FVCIs are governed by Schedule VII to Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ('NDI Rules'). The said Rules, inter-alia, stipulate that an FVCI may purchase:

2.5.1. Securities issued by an Indian company engaged in any of the following sectors and whose securities are not listed on a recognised stock exchange at the time of issue of the said securities:

- a) Biotechnology;
- b) IT related to hardware and software development;
- c) Nanotechnology;
- d) Seed research and development;
- e) Research and development of new chemical entities in pharmaceutical sector;
- f) Dairy industry;
- g) Poultry industry;
- h) Production of bio-fuels;
- i) Hotel-cum-convention centres with seating capacity of more than 3000;
- j) Infrastructure sector.

2.5.2. Units of a Venture Capital Fund (a fund established in the form of a trust, a company including a body corporate and registered under SEBI (Alternative Investment Funds) Regulations, 2012) or of a Category I Alternative Investment Fund (Cat-I AIF) or units of a scheme or of a fund set up by a Venture Capital Fund or by a Cat-I AIF.

2.5.3. Equity or equity linked instrument or debt instrument issued by an Indian 'start-up' irrespective of the sector in which the start-up is engaged. The definition of 'start-up' shall be as per Department for Promotion of

Industry and Internal Trade's Notification No. G.S.R. 364(E), dated the 11th April, 2018:

Provided that if the investment is in equity instruments, then the sectoral caps, entry routes and attendant conditions shall apply.

2.5.4. Securities on a recognised stock exchange subject to the provisions of FVCI Regulations.

2.6. As seen from above, the FVCI route has been enabled to encourage investments in sunrise sectors (sectors as mentioned at para 2.5.1 above) and start-ups. In order to incentivise investment through FVCI route, certain benefits/exemptions have been given to FVCIs, such as:

2.6.1. Exemption from entry and exit pricing norms - Under NDI Rules, FVCI may acquire, by purchase or otherwise, from, or transfer, by sale or otherwise, to, any person resident in or outside India, any security or instrument it is allowed to invest in, at a price that is mutually acceptable to the buyer and the seller/ issuer.

2.6.2. Provisions related to open offer under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, are not applicable in case of acquisition of shares in a target company from an FVCI by promoters of the target company, pursuant to an agreement between such FVCI and the promoters.

2.6.3. FVCIs are exempted from the lock-in requirement under the SEBI (Issue of Capital and Disclosure) Regulations, 2018 ('ICDR Regulations'), provided that the shares have been held by such FVCIs for at least six months.

2.6.4. FVCIs are classified as 'Qualified Institutional Buyers' ('QIBs') under the ICDR Regulations and are therefore eligible to subscribe to securities through qualified institutions placement and avail benefits as QIBs.

2.6.5. As per Section 90(2) of the Income-tax Act, 1961, where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, for granting relief of tax, or as the case may be, avoidance of double

taxation, then, in relation to the assessee (including FVCIs) to whom such agreement applies, the provisions of Income-Tax Act shall apply to the extent they are more beneficial to that assessee.

- 2.7. In the context of foreign investment routes, it may be noted that SEBI also registers Foreign Portfolio Investors ('FPIs') under SEBI (Foreign Portfolio Investors) Regulations, 2019 ('FPI Regulations') and regulates the investments made through Foreign Portfolio Investment route under Schedule II of NDI Rules. Note that the eligibility criteria for registration of FPIs, including with respect to alignment of Know Your Customer (KYC) requirements with PMLA, have been reviewed over the years to put in place necessary safeguards for ensuring a visibility over the identity of investors coming in through the said route.
- 2.8. Investment by FVCIs is one of the routes through which foreign investment is enabled in India and FVCIs have been provided certain benefits as stated above to encourage investments in sunrise sectors and start-ups. Considering the same, reviewing the eligibility criteria for FVCIs and rationalizing the process of granting registration is necessary to ensure that there is no regulatory arbitrage and adequate due diligence and safeguards are in place for investments through the FVCI route and the FPI route. Though the investment avenue for FPIs and FVCIs are different, it may be noted that the entry barriers/safeguards prescribed for FPIs under FPI Regulations are with an objective to ensure that the FPI route is not misused to route money that is not in compliance with applicable laws and minimize regulatory arbitrage. Thus, it is necessary to align the regulatory framework for registration of FVCIs with that of FPIs, since the entry norms for allowing foreign money through various routes regulated by SEBI needs to be consistent and harmonious with each other.
- 2.9. An agenda in this regard was placed for discussion in a meeting of Alternative Investment Policy Advisory Committee ('AIPAC') of SEBI, since there is no specific advisory committee set up for policy pertaining to FVCIs and, FVCIs are allowed to invest in Category I AIFs/VCFs. Further, considering that there were proposals in regard to enhancing the role of custodians/DDPs, few custodians/DDPs were also invited to participate in the said meeting, to provide

their inputs on the proposals. The committee after deliberation recommended the proposal for streamlining the regulatory framework for registration of FVCIs.

2.10. Taking into account the recommendations of AIPAC and internal deliberations, SEBI issued a consultation paper on May 18, 2023 soliciting public comments on the proposals made therein. A total of 9 entities (hereinafter referred as 'commenters'), predominantly custodians/DDPs, have provided comments on various proposals in the consultation paper. A copy of consultation paper and a summary of the comments received from public are placed at **Annexure A** and **Annexure B** respectively.

2.11. It is seen from the comments that the proposal for streamlining the regulatory framework for registration of FVCIs has received overall positive feedback. Various proposals in the consultation paper with respect to issues identified for consideration in this regard, are discussed below.

Issues for consideration:

3. Review of process for registration and related activities of FVCIs

3.1. Presently, the processing of applications for granting registration to FVCIs and due diligence thereof, is carried out by SEBI.

3.2. As regards registration of FPIs, it may be noted that, to make the procedure speedier, while notifying SEBI (Foreign Portfolio Investors) Regulations, 2014 (now repealed), DDPs were delegated the responsibility of processing applications for registration of FPIs and related due diligence, subject to conditions specified by SEBI. The same was implemented based on recommendations of a Committee on 'Rationalisation of Investment Routes and Monitoring of Foreign Portfolio Investments' set up by SEBI in 2013, under the Chairmanship of Shri. K.M. Chandrasekhar, Former Cabinet Secretary, Govt. of India.

3.3. As the FVCI registration and post registration processes are largely similar to that of FPIs, delegating similar role and responsibilities in this regard to DDPs, will bring consistency in processing registration and post registration applications for FPIs and FVCIs. It is expected that the same will also rationalize

the due diligence for the registration and other post registration processes with respect to FVCIs.

- 3.4. Note that FVCIs are required to appoint a domestic custodian for monitoring of investment of FVCIs in India, furnishing of periodic reports to SEBI and furnishing such information as may be called for by SEBI. While on-boarding an FVCI as a client, custodians are also required to complete the KYC requirement and due diligence of their clients in compliance with SEBI circular MIRSD/SE/Cir-21/2011 dated October 5,2011, follow the guidelines on identification of beneficial ownership as specified vide SEBI circular CIR/MIRSD/2/2013 dated January 24, 2013 and comply with the Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT) /Obligations of Securities Market Intermediaries under the Prevention of Money Laundering Act, 2002 and Rules framed there under dated February 03, 2023. Thus, custodians have already been mandated to carry out certain level of due diligence with respect to their FVCI clients. Therefore, mandating that the said Custodian shall also carry out such due-diligence as part of granting registration to FVCI applicants may not be too onerous for FVCIs.
- 3.5. Majority of the commenters on the consultation paper have provided positive feedback on the proposal to delegate processing of registration and post registration applications of FVCIs to DDPs, stating that the same would help in expediting processing of FVCI applications.
- 3.6. Many commenters have suggested providing detailed guidelines with respect to processing FVCIs registration and post registration applications by DDPs. In this regard, it may be noted that, SEBI has specified certain guidelines for processing registration and post registration applications of FPIs by DDPs, which is provided under Part A of Master Circular dated May 30, 2024, for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors ('Master circular for FPIs and DDPs'). Similarly, certain norms have been specified with respect to KYC requirement for FPIs which is provided under Part B of the aforesaid Master Circular (relevant pages are given at **Annexure C**). To bring consistency in processing of FVCI applications by DDPs,

it is desirable that the aforesaid norms are made applicable to DDPs with respect to their processing of FVCI applications as well.

- 3.7. While delegating the processing of FVCI applications to DDPs, it is necessary to ensure that the DDPs are provided with necessary information that is updated and accurate, to enable them to carry out adequate due-diligence, including ensuring compliance with the PMLA and the rules and regulations specified thereunder. Similarly, it is also necessary to ensure that the FVCIs disclose true/correct information, including information relating to their Beneficiary Ownership details, while applying for registration, and also to inform any change in such information to SEBI and DDPs in a timely manner. Further, it is essential to ensure that DDPs and FVCIs are made aware of their responsibility with respect to registration of FVCIs. In this regard, it may be noted that FPI Regulations specify certain obligations for FPIs and DDPs, to ensure that the processing of FPI registration applications is carried out diligently, based on latest available information. It is felt that similar obligations should also be cast on DDPs and FVCIs with respect to processing of FVCI applications.
- 3.8. Further, FVCI applicants are currently required to pay an application fee of USD 2100/- at the time of submitting registration application to SEBI and a registration fee of USD 8500/- upon approval of application. It may be noted that, in case of FPIs, only registration fee is charged to FPIs, which is remitted to SEBI through DDPs. Considering the same and since the processing of FVCI registration applications is proposed to be delegated to DDPs, it may not be appropriate for SEBI to charge application fee from FVCIs. Further, it may be noted that the registration fee for Category I and Category II FPIs is USD 2,500/- and USD 250/- respectively. Further, FPIs are required to pay renewal fee equal to their registration fee, for every block of three years. Considering that the initial registration fee is relatively high for FVCIs as compared to FPIs, a renewal fee of USD 100/- is being proposed to be levied for FVCIs for every block of five years. As the DDPs will be carrying out registration and post registration activities for FVCIs, there will be an additional cost for FVCIs which may be compensated by reducing the applicable registration fee. Also, since FVCIs' investments are meant to provide long term capital primarily to unlisted investee

companies and in order to align registration fee with that of FPIs, it is felt appropriate to reduce the registration fee to USD 2500/-.

Proposal:

- 3.9. Taking into account the recommendations of AIPAC, comments received from public and internal deliberations, it is proposed that FVCI Regulations may be suitably amended to -
 - 3.9.1. delegate the processing of registration and post registration applications of FVCIs to DDPs, in line with provisions prescribed for FPIs;
 - 3.9.2. specify that an applicant seeking registration as an FVCI shall engage a DDP to avail its services for obtaining a certificate of registration as FVCI;
 - 3.9.3. insert definitions that are relevant to processing of FVCI registration application to be carried out by DDP, in line with the definitions given in FPI Regulations;
 - 3.9.4. remove the requirement of charging application fee for registration applications filed by FVCI applicants;
 - 3.9.5. reduce the registration fee for FVCIs from USD 8500/- to USD 2,500/-; and
 - 3.9.6. specify obligations and responsibilities of FVCIs and DDPs with respect to processing of registration and post registration applications of FVCIs, in line with the obligations and responsibilities prescribed under FPI Regulations.
- 3.10. The guidelines for processing of FVCI applications by DDPs and norms with respect to KYC requirement for FVCIs may be specified by way of issuance of circular, in line with that specified under FPI Regulations.

4. Review of eligibility criteria for registration of FVCIs:

- 4.1. Currently, Regulation 4(1) of FVCI Regulations specifies the following eligibility criteria for registration as FVCI:

“For the purpose of the grant of a certificate to an applicant as a Foreign Venture Capital Investor, the Board shall consider the following conditions for eligibility, namely: -

- a) the applicants track record, professional competence, financial soundness, experience, general reputation of fairness and integrity.
- b) whether the applicant has been granted necessary approval by the Reserve Bank of India for making investments in India;
- c) whether the applicant is an investment company, investment trust, investment partnership, pension fund, mutual fund, endowment fund, university fund, charitable institution or any other entity incorporated outside India; or
- d) whether the applicant is an asset management company, investment manager or investment management company or any other investment vehicle incorporated outside India;
- e) whether the applicant is authorised to invest in venture capital fund or carry on activity as a foreign venture capital investor; or Alternative Investment Fund
- f) whether the applicant is regulated by an appropriate foreign regulatory authority or is an income tax payer; or submits a certificate from its banker of its or its promoter's track record where the applicant is neither a regulated entity nor an income tax payer.
- g) the applicant has not been refused a certificate by the Board.
- h) whether the applicant is a fit and proper person.”

4.2. It is observed that some of the criteria given above require more clarity regarding the information to be submitted by the applicant and in ascertaining eligibility at the time of granting registration as an FVCI. Also, certain other criteria such as approval from RBI have become redundant. Commenters on the consultation paper have suggested that the criteria for granting registration should be clear and not subjective. It is felt necessary to replace the existing eligibility criteria with a clear and precise set of criteria, so as to enable DDPs to process the FVCI applications without ambiguity.

4.3. Further, FPI Regulations specify certain eligibility criteria for applicants seeking to register as FPIs, in line with the objective of facilitating foreign investments, and at the same time, ensuring that the funds are sourced from bona fide investors and meet applicable legal requirements, including that under Prevention of Money Laundering Act, 2002. Since similar regulatory objectives

apply for registering FVCIs as well, it is desirable that eligibility criteria for FVCIs are aligned with those prescribed for FPIs.

- 4.4. The eligibility criteria prescribed for FPIs under FPI Regulations and proposed changes to FVCI Regulations based on the same, are placed at **Annexure-D**.
- 4.5. In addition to bringing in eligibility criteria under FPI Regulations to FVCI regulatory framework, the existing eligibility criteria for FVCIs specified under FVCI Regulations and circulars needs to be reviewed. The changes proposed to existing eligibility criteria for FVCIs, are placed at **Annexure-E**.
- 4.6. In line with FPIs, FVCIs shall be deemed to be 'intermediary' under SEBI (FVCI) Regulations and subsequently included as an 'intermediary' under the SEBI (Intermediaries) Regulations.

Proposal:

- 4.7. Considering the above and taking into account the recommendations of AIPAC, comments received from public and internal deliberations, it is proposed that FVCI Regulations may be suitably amended to -
 - 4.7.1. revise the eligibility criteria for registration of FVCIs in line with the provisions prescribed for FPIs; and
 - 4.7.2. remove anomaly in definition of FVCI by replacing 'an investor incorporated and established outside India' with 'an investor incorporated or established outside India' so as to provide for entities incorporated or established outside India to be an FVCI.
- 4.8. Considering that FVCIs invest in start-ups and sunrise sectors, in order to facilitate foreign inflow in these areas, the minimum commitment requirement may not be retained. To align with eligibility criteria for FPIs, it is proposed to remove the existing requirement for FVCI applicants to obtain firm commitment from their investors for contribution of an amount of at least USD 1 million from investors. The same may be specified by way of issuance of circular.

5. Review of application form for grant of certificate of registration as FVCIs

- 5.1. In case of FPI registration, the applicants are required to submit a Common Application Form ("CAF") (**Annexure F**) to DDPs for the purpose of (a)

registration as FPIs with SEBI, (b) allotment of Permanent Account Number [PAN] and (c) carrying out of KYC for opening of Bank and Demat Account.

- 5.2. Many commenters have suggested to implement a similar CAF for FVCIs also, in order to facilitate ease of doing business for FVCIs. Note that since CAF for FPIs has been notified by the Government, implementing CAF would require co-ordination with the Government.
- 5.3. Until CAF is implemented for FVCIs, as part of phase I of streamlining regulatory framework for registration of FVCIs, the Form A given under First Schedule to FVCI Regulations, which provides application form for grant of certificate of registration as FVCI, may be suitably modified in line with information presently being sought in CAF for the purpose of registration of FPIs and eligibility criteria proposed for registration of FVCI at given at para 4 above.
- 5.4. Subsequently, as part of Phase II of implementation, SEBI, in consultation with the Government, may move towards a CAF for FVCIs also, for the purpose of registration as FVCI, allotment of PAN and carrying out KYC for opening of Bank and Demat accounts. Upon implementation of CAF for FVCIs, the Form A provided under FVCI Regulations may be removed.

Proposal:

- 5.5. Considering the above and taking into account the recommendations of AIPAC, comments received from public and internal deliberations, it is proposed that FVCI Regulations may be suitably amended to -
 - 5.5.1. revise Form A provided under First Schedule to FVCI Regulations to collect information in line with that sought in CAF for the purpose of registration of FPIs and in accordance with the eligibility criteria proposed to prescribed for FVCIs as specified at para 4 above; and
 - 5.5.2. remove Form A provided under First Schedule to FVCI Regulations, upon implementation of CAF for FVCIs.

6. Applicability of revised eligibility criteria to existing FVCIs

- 6.1. One of the commenters has suggested that the proposed changes should be made applicable prospectively and not adversely impact the existing FVCI

registrations or acts that were undertaken up prior to the date of proposed changes coming into effect.

- 6.2. However, another commenter has suggested specifying detailed guidelines for existing FVCIs to comply with the proposed changes, including the following:
 - 6.2.1. All existing FVCIs must submit the information sought in the new Form A and meet the new eligibility requirements within 1 year of publishing of the regulations (by payment of additional USD \$ 2100 application fee.)
 - 6.2.2. If they do not meet the new requirements, their registration will be deemed to have expired and no purchase transactions may be permitted. Such FVCIs will need to apply for surrender if there was no holding of cash/ security. In case they have holdings, they should be allowed to surrender post the sale of holdings are completed.
- 6.3. As regards existing FVCIs that are registered with SEBI, it is essential to ensure that only those FVCIs that meet the eligibility criteria as prescribed at para 4 above, continue to invest in securities market. Further, it shall be ensured that the information collected from them at the time of registration is updated and any new information required as per proposals mentioned above, is collected. Thus, commenter's suggestion as provided at para 6.2 above has merit.
- 6.4. Accordingly, existing FVCIs may also be mandated to engage services of DDP to carry out due diligence to ascertain whether the FVCI meets the revised eligibility criteria. Further, a time period may be specified from the date the proposals at para 3, 4 and 5 come into force, to review the eligibility of existing FVCIs as per eligibility criteria proposed in para 4 above.
- 6.5. It may be noted that, while the FPI Regulations were notified in 2019, it was specified that an FPI whose registration was not valid and who was holding securities or derivatives in India should be allowed to sell such securities or wind up their open position in derivatives within one year from the date of publication of FPI Regulations. Unlike FPIs who invest predominantly in listed securities, FVCIs are required to invest primarily in unlisted securities, where mandating a time bound exit may not be appropriate since the FVCI may not be able to find a buyer in the given time frame.

- 6.6. In case of FPIs that no longer meet the eligibility criteria, the following is specified under FPI Regulations:
- 6.6.1. If a jurisdiction which was a compliant jurisdiction, as given in para 3 and 4 of **Annexure D**, at the time of grant of registration to FPI, becomes non-compliant jurisdiction, i.e., ceases to be a member of IOSCO/ Bilateral Memorandum of Understanding with SEBI/ BIS or the concerned jurisdiction of FPI is listed in FATF public statement as "high risk" and "non-cooperative" jurisdiction or the concerned jurisdiction of FPI, then concerned Custodian shall not allow such FPIs to make fresh purchases till the time the jurisdiction/FPI is compliant with the Regulations. However, the FPI shall be allowed to sell the securities or continue to hold the securities already purchased by it.
- 6.6.2. Further, in case the FPI itself or its underlying investors contributing more than the threshold prescribed under sub-rule (3) of rule 9 of Prevention of Money-laundering (Maintenance of Records) Rules, 2005 in the corpus of the FPI or identified on the basis of control, come under the Sanctions List notified by the United Nations Security Council, custodian shall not allow any further buy/sell in the account of such FPI and shall forthwith notify such instances to SEBI.
- 6.7. Considering the illiquid nature of investments of FVCIs, it may not be appropriate to specify any timeline for winding up the investments of existing FVCIs. However, a restriction may be placed on fresh investments, as specified at para 6.6.1 above. Thus, in case an FVCI becomes ineligible to hold the registration, the FVCI shall not be allowed to make new investments, except for additional investment in existing unlisted investee company, and FVCI shall not take fresh commitment until it meets the eligibility criteria.
- 6.8. However, in case the FVCI or its constituents come under Sanctions List notified by the United Nations Security Council or the FVCI does not satisfy 'fit and proper' criteria, considering the gravity of the same, such FVCIs shall not even be permitted to sell investments, in line with that specified for FPIs, as given at para 6.6.2 above.

Proposal:

6.9. Considering the above and taking into account the comments received from public and internal deliberations, it is proposed that the FVCI Regulations may be suitably amended to -

6.9.1. Mandate existing FVCIs to provide information to DDPs so as to ascertain their eligibility to act as FVCIs;

6.9.2. Enable specifying guidelines to DDPs for ascertaining eligibility of existing FVCIs as per eligibility criteria proposed in para 4 above;

6.9.3. Mandate FVCIs to inform the Board and DDP in writing as soon as possible but not later than seven working days, if the FVCI no longer satisfies the eligibility criteria proposed in para 4 above; and

6.9.4. Enable specifying norms for FVCIs that no longer meet the eligibility criteria proposed in para 4 above.

6.10. It is further proposed that, the following may be specified by way of circular:

6.10.1. Existing FVCIs shall engage a DDP to avail its services for conducting due-diligence with respect to registration as FVCI in line with proposals at para 4 above. Such FVCIs shall engage a DDP within 3 months from the date of applicability of the amendments to the Regulations. In case of failure to engage a DDP by FVCIs, such FVCIs shall not be allowed to make any fresh investment in their account thereafter. However, such FVCIs shall be allowed to liquidate their existing investments in a manner and timeline as may be specified by the Board, subject to compliance with KYC, AML/CFT requirements assessed by the Board.

6.10.2. A time period of 6 months from the date of the appointment of DDP as stated at para 6.10.1 above may be provided for DDPs to carry out registration related due diligence for the existing FVCIs.

6.10.3. In case an existing FVCI no longer meets the eligibility criteria proposed at para 4 above, such FVCI shall continue to hold or sell its existing investments, but shall not make any new investment and FVCI shall not take fresh commitment until the FVCI meets the eligibility criteria. However,

such FVCI shall be allowed to make additional investment in its existing investee company which is unlisted.

If such FVCIs have no investment on the date of becoming ineligible, the FVCIs shall apply for surrender of registration within 30 days and the DDP may process the application for surrender.

6.10.4. Notwithstanding conditions at para 6.10.3 above, in case the FVCI itself or its underlying investors contributing in the corpus of the FVCI more than the threshold as specified under Rule 9 of PMLR or identified on the basis of control, come under the Sanctions List notified by the United Nations Security Council, or the FVCI is no longer a 'fit and proper' person in terms of Schedule II to SEBI (Intermediaries) Regulations, 2008, no buy/sell in the account of such FVCI shall be allowed and the custodian shall notify such instances to SEBI within 7 days. A flowchart explaining the above proposals is given at **Annexure G** for reference.

6.10.5. The custodian/DDP shall be responsible for monitoring of compliance of FVCI with conditions specified at paras 6.10.3 and 6.10.4 above.

6.10.6. As the custodian/DDP shall be responsible for registration of FVCIs and monitoring of their compliance with the regulatory requirements, the extant data available with SEBI in respect of registered FVCIs shall be transferred to the respective custodian/DDP with whom the FVCI will get migrated.

7. Renewal of registration of FVCIs

7.1. FVCI Regulations do not specify any provision on validity of registration of FVCIs. Presently, the certificate of registration granted under FVCI Regulations is valid unless it is surrendered by FVCI or cancelled/suspended by SEBI. In the absence of renewal fee, FVCIs may continue to hold the registration, even if they are inactive.

7.2. Perpetual holding of the certificate of registration without any investment activity is prone to misuse and adds to the regulatory cost of monitoring inactive FVCIs. While there is no intention to limit the duration of investment by FVCIs, mandating renewal fee for holding registration, in line with the requirement

mandated for FPIs, will discourage inactive FVCIs from merely holding the registration without any activity.

- 7.3. It is possible that the registration details of some of the existing FVCIs might have changed without updating the same with SEBI. The periodic renewal will also ensure that the registration details of FVCIs are validated periodically.
- 7.4. While many commenters have provided positive feedback on the said proposal, few commenters have expressed concern that the same may not be an encouraging move as the FVCI investment is a long-term strategic investment and FVCI investors have a long-term investment horizon. In this regard, it may be noted that the specified conditions, including payment of fee, is with a regulatory intent of periodical validation of details of the entity. In case FVCI intends to hold the investments, it may continue to do so by paying renewal fee. Thus, suggestion of commenter to not levy renewal fee may not be accepted. However, considering the feedback received in this regard, the proposed quantum of renewal fee, which was originally proposed as USD 2500/- in the consultation paper, is now proposed to be kept at a nominal amount of USD 100/-

Proposal:

- 7.5. Considering the above and taking into account the recommendations of AIPAC, comments received from public and internal deliberations, it is proposed that FVCI Regulations may be suitably amended to specify the following:
 - 7.5.1. To keep the registration in force, FVCI shall pay renewal fee of USD 100/- for every block of five years. This shall be applicable from the beginning of the sixth year from the date of grant of certificate of registration and the fee shall be paid before expiry of the block for which fee has been paid, in the manner specified by the Board from time to time.
 - 7.5.2. If the FVCI fails to pay the renewal fee along with the late fee within the specified due date and does not have any investment in India, such FVCI shall be deemed to have applied for surrender of its registration and the designated depository participant of such FVCI shall process the surrender after obtaining approval from the Board.

- 7.5.3. If the FVCI fails to pay the renewal fee within the specified due date and has investment in India, such FVCI shall pay the renewal fee as specified in Part A of Second Schedule to the FVCI Regulations, along with a late fee equal to five percent of renewal fee for each day of delay in payment of renewal fee, subject to maximum of one and half times of the renewal fee.
- 7.5.4. If the renewal fee, along with late fee, is not paid within thirty days from the date of expiry of the block for which fee has been paid, the certificate of registration of the FVCI shall be liable to be suspended or cancelled.
- 7.5.5. Till the renewal fee is paid, FVCIs shall not buy or sell any investment and the custodian/DDP of the FVCI shall monitor compliance of FVCI with the said provision.
- 7.6. With respect to continuance of registration of FVCIs, it is proposed to specify the following by way of issuance of circular:
- 7.6.1. Existing FVCIs who would have completed five years from the date of grant of certificate of registration as on date of the applicability of the circular in this regard, shall pay the renewal fee, within three months of applicability of this circular in this regard and thereafter every subsequent block of five years from the date of the applicability of the circular.
- 7.6.2. Existing FVCIs who are yet to complete five years from the date of grant of certificate of registration as on date of applicability of the circular in this regard, shall pay renewal fee in the manner as specified in para 7.5.1 above.
- 7.6.3. In cases of existing FVCIs where the renewal fee with late fee, if applicable, is not paid within the said timeline, such FVCIs shall not be allowed to buy any fresh investments. Further, such FVCIs shall be allowed to liquidate their existing holdings in a manner and timeline as may be specified by the Board.

8. (Withdrawn, hence excised)

9. (Withdrawn, hence excised)

10. **Timeline for applicability of proposed amendment:**

10.1. Considering that the aforesaid proposals necessitate changes in the manner in which registration of FVCIs is carried out and require Depositories and DDPs to make necessary changes in their systems to carry out delegated responsibilities, sufficient time period may be provided for implementation of the said proposals.

Proposal:

10.2. The proposals specified at paras 3 to 9 above, may be made applicable from January 01, 2025.

Proposal to the Board:

11. The Board may consider and approve the following proposals:

11.1. amend the FVCI Regulations to:

11.1.1. facilitate delegating the processing of registration and post registration applications of FVCIs to DDPs;

11.1.2. revise the eligibility criteria for registration of FVCIs;

11.1.3. revise the Form A provided under First Schedule of FVCI Regulations for the purpose of granting registration;

11.1.4. prescribe norms for renewal of registration of FVCIs; and

11.1.5. **(Withdrawn, hence excised)**

11.1.6. **(Withdrawn, hence excised)**

11.2. Transfer of data available with SEBI in respect of FVCI to custodian/DDP with whom the FVCI will get registered.

12. The draft amendment to FVCI Regulations and the draft notification for the proposed amendment are placed at **Annexure J** and **Annexure K** respectively.

13. The Board is requested to consider and approve the proposals as in the Memorandum and authorize the Chairperson to make consequential and incidental changes and take necessary steps to give effect to the decisions of the Board.

The consultation paper is available at the following link:

<https://www.sebi.gov.in/reports-and-statistics/reports/may-2023/consultation-paper-on-streamlining-regulatory-framework-for-registration-of-foreign-venture-capital-investors-fvcis-71391.html>

This has been excised for reasons of confidentiality.

The Master Circular is available at the following link:

[https://www.sebi.gov.in/legal/master-circulars/may-2024/master-circular-for-foreign-portfolio-investors-designated-depository-participants-and-eligible-foreign-investors- 83689.html](https://www.sebi.gov.in/legal/master-circulars/may-2024/master-circular-for-foreign-portfolio-investors-designated-depository-participants-and-eligible-foreign-investors-83689.html)

Annexure D

This has been excised for reasons of confidentiality.

This has been excised for reasons of confidentiality.

Annexure F

Annexure F is available at the following link:

[https://www.sebi.gov.in/sebi_data/commondocs/may-2024/Annexure_A\(1\)_p.PDF](https://www.sebi.gov.in/sebi_data/commondocs/may-2024/Annexure_A(1)_p.PDF)

This has been excised for reasons of confidentiality.

(Withdrawn, hence excised)

(Withdrawn, hence excised)

Annexure J

Amendment to SEBI (Foreign Venture Capital Investor) Regulations, 2000 shall be notified after following the due process.

Annexure K

Amendment to SEBI (Foreign Venture Capital Investor) Regulations, 2000 shall be notified after following the due process.