

### SEBI issues operating guidelines for AIFs in IFSC

#### Background

In 2015, the Securities and Exchange Board of India (SEBI) had issued detailed guidelines to facilitate and regulate the securities market in India's first International Financial Services Centre (IFSC) set up under section 18(1) of the Special Economic Zones Act, 2005 at Gujarat International Finance Tec-City, Gujarat (GIFT City).

The above guidelines contained enabling provisions for various capital market players including Alternative Investment Funds (AIFs) in the IFSC. These guidelines provided the basic framework for AIFs, such as permissible investors, permissible investments, etc. However, the operating guidelines were yet to be specified by SEBI.

#### Operating guidelines for AIFs in IFSC

On 26 November 2018, the SEBI issued Circular No. SEBI/HO/IMD/DF1/CIR/P/143/2018 specifying the 'Operating guidelines for AIFs in IFSC' (operating guidelines).

The key highlights of the operating guidelines are as follows:

1. *Registration process:*  
An AIF established or incorporated in IFSC in the form of a trust, or a company, or a limited liability partnership (LLP), or a body corporate can seek registration with SEBI.
2. *Investment conditions:*
  - AIFs in IFSC can now invest in India under the foreign portfolio investment (FPI) or foreign venture capital investment or foreign direct investment route (earlier, only the FPI route was permitted).
  - AIFs in IFSC can invest in units of other AIFs in IFSC in India.
3. *Minimum requirements:*

Particulars	Amount (in USD)
Minimum corpus requirement for each scheme of the AIF	3,000,000
Minimum investment by an investor in AIF:	
○ For employees or directors of the AIF or its manager	40,000
○ For other investors	150,000
Minimum continuing interest requirement for manager or sponsor of the AIF (not through waiver of fees)	Lower of the following:
○ For Category I and Category II AIF	2.5% of corpus or 750,000
○ For Category III AIF	5% of corpus or 1,500,000

4. *Set up requirements for manager/ sponsor of AIFs in IFSC:*
  - Existing sponsor/ manager of an AIF in India can set up a branch or company or LLP in IFSC.
  - New sponsors/ managers will have to set up a company or LLP in IFSC.
5. *Requirement to appoint custodian:*
  - For Category I and Category II AIFs - Only if corpus > USD 70 million.
  - For Category III AIF, mandatory requirement.
6. *Requirements for Angel funds:*
  - Minimum corpus should be at least USD 750,000.
  - Criteria specified for angel investor investing into Angel fund in IFSC as follows:

- individual investor with net tangible assets of at least USD 300,000 (excluding value of his principal residence).
- body corporate with net worth of at least USD 1.50 million.
- Angel funds in IFSC can invest in Venture Capital Undertakings (VCUs) in India, as per Department of Industrial Policy and Promotion guidelines, which -
  - have turnover less than USD 3.75 million.
  - are not promoted or sponsored or related to an industrial group whose group turnover exceeds USD 45 million.
- Minimum investment by Angel funds in VCUs shall be USD 40,000 subject to an upper cap of USD 1.50 million.

7. *Overseas investments:*

The SEBI *vide* para 2.B. of the Circular No. CIR/IMD/DF/7/2015 dated 1 October 2015, had laid down conditions for AIFs to comply with before investing outside India. Such conditions included obtaining prior approval from SEBI, capping investments to a limit of USD 500 million (now USD 750 million) and 25% of investible funds, etc. As per the operating guidelines issued by the SEBI, these conditions should not apply to an AIF set up in the IFSC.

### Key takeaways

This Circular is a welcome move, which will act as a catalyst to the growth of the fund regime in the IFSC and will provide global investors with a new option to set up global funds from the IFSC in the form of an AIF. These guidelines provide the much needed clarity on key regulatory issues like applicability of existing regulations, conditions for overseas investment, form of set up for existing manager/ sponsor and flexibility to invest in India through all routes. As a next step, while SEBI has issued the much awaited operating guidelines, the Government should also bring out the changes in the tax laws to encourage the global investors to participate in the fund regime in India's first IFSC at the GIFT City.

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