

A close-up photograph of a hand holding a pen, with a blue-tinted background. The hand is positioned in the lower right quadrant of the frame, with the index finger pointing towards the center. The pen is held between the thumb and index finger. The background is a blurred, blue-tinted scene, possibly an office or a meeting room.

REGULATORY UPDATE

**Changes relating to Foreign Investments in
Alternate Investment Funds (AIFs)**

Manager of Alternate Investment Fund (AIF) to adhere to additional norms for onboarding Foreign Investors in AIF

Pursuant to the Regulation 10(a) of the SEBI (Alternative Investment Funds) Regulations, 2012 ('AIF Regulations'), AIF's are allowed to raise funds from any investor whether Indian, foreign or non-resident Indians, by way of issue of units.

The Securities and Exchange Board of India (SEBI) has vide its circular dated December 09, 2022 provided certain additional conditions which shall be required to be ensured by the managers of the AIF before on-boarding foreign Investors. Key highlights of those additional conditions are as follows:

1. The Foreign investor of the AIF should be a **resident of the country whose securities market regulator is a signatory** to the-
 - i) International Organization of Securities Commission's Multilateral Memorandum of Understanding; or
 - ii) a signatory to the bilateral Memorandum of Understanding with SEBI.

However, a relaxation on the foregoing criterion is provided to foreign investors if they are either Government or Government related investor, provided such investor is a resident in the country as may be approved by the Government of India.

2. The Investor(s) or its underlying investors contributing 25% or more in the corpus of the investor or identified on the basis of control, are:
 - i. not the person(s) mentioned in the Sanctions List notified from time to time by the United Nations Security Council; and
 - ii. is not a resident in the country identified in the public statement of Financial Action Task Force as—

- a) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
- b) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

The circular also states that in case any existing investor is not able to meet the revised criteria then no further capital-contribution shall be drawn down by the manager of the AIF from such investor for making investment, until the investor again meets the said conditions again.

Conclusion: The circular mandates additional conditions to be looked upon by the AIF Manager while accepting capital commitments from foreign investors.

Link of the Circular on Foreign investment in Alternative Investment Funds (AIFs) is as follows:

<https://www.sebi.gov.in/legal/circulars/dec-2022/foreign-investment-in-alternative-investment-funds-aifs-66045.html>

DISCLAIMER:

The information contained herein is based on the Circular issued by SEBI on December 09, 2022. While the information is believed to be accurate to the best of our knowledge, we do not make any representations or warranties, express or implied, as to the accuracy or completeness of this information. Readers should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This note is not an offer, invitation, advice or solicitation of any kind. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.