



CAPITAL MARKETS

N. A. SHAH BULLETIN

December 2021

N. A. SHAH ASSOCIATES LLP
Chartered Accountants

INDEX

1. Investment limits for AIFs and introduction to Co-investment.....	4
2. Introduction of Co-investment Portfolio Manager (CIPM) under Portfolio Managers Regulations	4
3. Related Party definition and corporate governance amendments under SEBI LODR.....	5
4. Scheme of Arrangement by listed entities	6
5. Write off of debt securities by FPIs	7

EXECUTIVE SUMMARY

- SEBI has prescribed concentration norms on Category III AIFs for investment in listed equities and other securities of listed entities.
- SEBI has introduced concept of "Co-investment" under AIFs and provided for certain compliances on prescribed thresholds.
- SEBI has made amendments to the definition of related party to include shareholders holding 10% of equity with effect from 01st April 2023.

1. Investment limits for AIFs and introduction to Co-investment

a. Investment Limits for Category III Alternate Investment Funds (AIFs)

- SEBI has prescribed concentration norms on Category III AIFs for investment in listed equities of a single company and other securities of listed entities being 10% of its NAV and 10% of its investable funds respectively (20% in case of large value funds Category III AIFs).
- It is now specified that the NAV shall mean market value of all securities including cash and excluding borrowed funds on the business day immediately preceding the date on which the AIF makes such investment.
- Passive breach of the limits shall have to be rectified within 30 days from the date of breach.

b. Co-investment under AIF

- SEBI has introduced the term "Co-investment" to mean investment made by a Manager or Sponsor or investor of Category I and II AIF in the investee companies where such AIFs make investment.
- SEBI has provided that the terms of co-investment shall not be favourable than those of AIF investment and the exit shall be identical to those applicable to AIF.
- Category I and II AIFs are required to appoint a SEBI registered custodian. In case of co-investment, fund will have to appoint a custodian if the sum of corpus of the AIF and value of co-investment is more than INR 500 crores.

2. Introduction of Co-investment Portfolio Manager (CIPM) under Portfolio Managers Regulations

- In line with amendment made in AIF regulations, SEBI has introduced the term "Co-investment Portfolio Manager" under SEBI Portfolio Managers Regulations.
- The following provisions applicable to a portfolio manager shall not be applicable to a CIPM:

- Appointment of an employee who is a graduate and has an experience of 2 years in activities related to securities market
 - Maintaining of minimum net worth requirements
 - Uploading of disclosure document on website
 - Appointment of compliance officer
- Clients of CIPM cannot withdraw funds or securities before maturity of the contract unless, certificate of CIPM is suspended or cancelled or in the event of bankruptcy or liquidation of CIPM.
 - CIPM can invest only in unlisted securities of investee companies where Category I and Category II AIF managed by it as Manager, make investment.

3. Related Party definition and corporate governance amendments under SEBI LODR

a. Definition of Related Party Transactions (RPTs)

SEBI has amended the definition of 'Related party' with effect from 01st April 2023, to include any person or entity holding equity shares of 10% or more in the listed entity either directly or beneficially during any time in the previous year.

b. Materiality of RPTs

Transaction with the related party shall be considered material, if the transaction individually or cumulative in a financial year, exceeds INR 1,000 crore or 10% of the annual consolidated turnover of the listed entity as per the last audited financial statements, whichever is lower.

c. Audit Committee

- All related party transactions and subsequent 'material modifications' shall require prior approval of the audit committee of a listed entity. 'Material modifications' shall be defined and disclosed as a part of the policy on materiality of related party transactions.
- A related party transaction to which the subsidiary of a listed entity is a party but the listed entity is not a party, shall require prior approval of the audit

committee of the listed entity if the value of such transaction whether entered into individually or taken together with previous transactions during a financial year exceeds 10% of:

Till 31 st March 2023	the annual consolidated turnover as per the latest audited financial statements of the listed entity
W.e.f. 01 st April 2023	the annual standalone turnover as per the latest audited financial statements of the subsidiary

However, in above cases, prior approval of audit committee of listed entity will not be required if the subsidiary itself is a listed entity.

- All material related party transactions and subsequent material modifications as defined by audit committee shall require prior approval of shareholders through resolution except in case where a listed subsidiary is a party.
- For transactions entered into between two wholly-owned subsidiaries of the listed holding company, prior approval of Audit committee or shareholders is not required.
- Listed entity shall disclose the RPTs in the format specified by SEBI, every six months on the date of publication of its standalone and consolidated financial results (up to 31st March 2023 – the disclosure be made within 15 days publication of financial results).

d. Additional disclosure in Corporate Governance report

In the corporate governance report, listed entity and its subsidiaries shall have to disclose, loans and advances in the nature of loans to firms/companies in which directors are interested by name and amount.

4. Scheme of Arrangement by listed entities

To ensure that the recognized stock exchanges refer draft schemes to SEBI only upon being fully convinced that the listed entity is in compliance with SEBI Act, Rules, Regulations and circulars, SEBI has added certain parameters and required documents to be submitted by the listed entity for schemes filed with stock exchange on after November 16, 2021.

5. Write off of debt securities by FPIs

SEBI has allowed that FPIs who wish to surrender their registration are allowed to write off debt securities in their beneficiary account which they are unable to sell for any reason.

The contents provided in this newsletter are for information purpose only and are intended, but not promised or guaranteed, to be correct, complete and up-to-date. The firm hereby disclaims any and all liability to any person for any loss or damage caused by errors or omissions, whether such errors or omissions result from negligence, accident or any other cause.

From:

N. A. Shah Associates LLP

Chartered Accountants

Address: B 21-25 / 41-45, Paragon Centre, Pandurang Budhkar Marg, Mumbai –
400013.

Tel: 91-022-4073 3000, Fax: 91-022-4073 3090

E-mail Id: info@nashah.com