

**ANNEXURE**

**A. Qualified Institutional Buyer” means:**

- (i) a mutual fund, venture capital fund, alternative investment fund and foreign venture capital investor registered with the Board;
- (ii) foreign portfolio investor other than individuals, corporate bodies and family offices
- (iii) a public financial institution;
- (iv) a scheduled commercial bank;
- (v) a multilateral and bilateral development financial institution;
- (vi) a state industrial development corporation;
- (vii) an insurance company registered with the Insurance Regulatory and Development Authority of India;
- (viii) a provident fund with minimum corpus of twenty Five crore rupees;
- (ix) a pension fund with minimum corpus of twenty Five crore rupees;
- (x) National Investment Fund set up by resolution no. F. No. 2/3/2005-DDII dated November 23, 2005 of the Government of India published in the Gazette of India;
- (xi) insurance funds set up and managed by army, navy or air force of the Union of India; and
- (xii) insurance funds set up and managed by the Department of Posts, India; and
- (xiii) systemically important non-banking Financial companies.

**B. Qualified Buyer means:**

a financial institution, insurance company, bank, state financial corporation, state industrial development corporation, trustee or asset reconstruction company which has been granted a certificate of registration under sub-section (4) of section 3 or any asset management company making investment on behalf of mutual fund or a foreign institutional investor registered under the Securities and Exchange Board of India Act, 1992 or regulations made thereunder, any category of non-institutional investors as may be specified by the Reserve Bank under sub-section (1) of section 7 or any other body corporate as may be specified by the Board.

**C. Countries sharing land borders with India are Pakistan, Afghanistan, China, Nepal, Bhutan, Myanmar and Bangladesh.**

**D. The beneficial owner as per sub-rule (3) of Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 shall be determined as under—**

*(a) where the client is a company, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.*

*Explanation— For the purpose of this sub-clause—*

*1. “Controlling ownership interest” means ownership of or entitlement to more than ten per cent of shares or capital or profits of the company;*

*2. “Control” shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;*

*(b) where the client is a partnership firm, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of/entitlement to*

more than ten percent of capital or profits of the partnership or who exercises control through other means

*Explanation - For the purpose of this clause, "Control" shall include the right to control the management or policy decision;*

*(c) where the client is an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;*

*(d) where no natural person is identified under (a) or (b) or (c) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;*

*(e) where the client is a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with 33[ten] percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership; and*

*(f) where the client or the owner of the controlling interest is 26[an entity listed on a stock exchange in India, or it is an entity resident in jurisdictions notified by the Central Government and listed on stock exchanges in such jurisdictions notified by the Central Government, or it is a subsidiary of such listed entities], it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such entities.*

**E. 'Same group' shall mean 'related parties' and 'relatives' as defined in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. ('LODR Regulations')**

**a) Related party as per LODR Regulations -**

*"related party" means a related party as defined under sub-section (76) of section 2 of the Companies Act, 2013 or under the applicable accounting standards:*

*Provided that:*

*(a) any person or entity forming a part of the promoter or promoter group of the listed entity; or*

*(b) any person or any entity, holding equity shares:*

*(i) of twenty per cent or more; or*

*(ii) of ten per cent or more, with effect from April 1, 2023;*

*in the listed entity either directly or on a beneficial interest basis as provided under section 89 of the Companies Act, 2013, at any time, during the immediate preceding financial year;*

*shall be deemed to be a related party.*

*Provided further that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);*

**b) Related party as per sub-section (76) of section 2 of the Companies Act, 2013-**

*"related party", with reference to a company, means—*

*(i) a director or his relative;*

*(ii) a key managerial personnel or his relative;*

*(iii) a firm, in which a director, manager or his relative is a partner;*

*(iv) a private company in which a director or manager 1[or his relative] is a member or director;*

*(v) a public company in which a director or manager is a director 2[and holds] along with his relatives, more than two per cent. of its paid-up share capital;*

*(vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;*

*(vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:*

*Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;*

*(viii) any body corporate which is—*

*(A) a holding, subsidiary or an associate company of such company;*

*(B) a subsidiary of a holding company to which it is also a subsidiary; or*

*(C) an investing company or the venturer of the company.*

*Explanation.—For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate];*

*(ix) such other person as may be prescribed.*

For the purposes of sub-clause (ix) of clause (76) of section 2 of the Act, a director other than an independent director or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.

**c) Relatives as per LODR Regulations –**

*“relative” means relative as defined under sub-section (77) of section 2 of the Companies Act, 2013 and rules prescribed there under:*

*Provided this definition shall not be applicable for the units issued by mutual fund which are listed on a recognised stock exchange(s).*

**d) Relatives as per sub-section (77) of section 2 of the Companies Act, 2013-**

*“relative”, with reference to any person, means anyone who is related to another, if—*

*(i) they are members of a Hindu Undivided Family;*

*(ii) they are husband and wife; or*

*(iii) one person is related to the other in such manner as may be prescribed.*

***List of Relatives in Terms of Clause (77) of section 2***

*A person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:-*

*(1) Father: Provided that the term “Father” includes step-father.*

*(2) Mother: Provided that the term “Mother” includes the step-mother.*

*(3) Son: Provided that the term “Son” includes the step-son.*

*(4) Son’s wife.*

*(5) Daughter.*

*(6) Daughter’s husband.*

*(7) Brother: Provided that the term “Brother” includes the step-brother;*

*(8) Sister: Provided that the term “Sister” includes the step-sister.*

CIRCULAR

SEBI/HO/AFD/AFD-POD-1/P/CIR/2024/135

October 08, 2024

To,

**All Alternative Investment Funds (AIFs)**

**All Custodians**

Sir/Madam,

**~~Sub: Specific due diligence of investors and investments of AIFs~~**

1. In terms of Regulation 20(20) of SEBI (Alternative Investment Funds) Regulations, 2012 ('AIF Regulations'), inserted ~~vide notification dated April 25, 2024~~, every AIF, Manager of the AIF and Key Management Personnel of the Manager and the AIF shall exercise specific due diligence, with respect to investors and investments of the AIF, to prevent facilitation of circumvention of such laws, as may be specified by SEBI from time to time.
2. In this regard, the specific due diligence to be carried out by AIFs, managers of AIFs and their Key Management Personnel, with respect to investors and investments of the AIF, to prevent facilitation of circumvention of the following regulatory frameworks, are being specified in this circular -
  - I. Provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ('ICDR Regulations'), and other regulations of SEBI wherein benefits or relaxations have been provided to entities designated as Qualified Institutional Buyers (QIBs).
  - II. Provisions of the 'Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002' (SARFAESI Act) wherein benefits are provided to entities designated as Qualified Buyers (QBs).
  - III. Prudential norms specified by Reserve Bank of India (RBI) for regulated lenders with respect to Income Recognition, Asset Classification, Provisioning and restructuring of stressed assets.
  - IV. Rule 6 of Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (NDI Rules) for investment from countries sharing land border with India (read with Press Note 3 dated April 17, 2020 of FDI Policy 2020).
3. **~~Investors availing benefits designated for QIBs through AIFs:~~**
  - 3.1. AIFs have been designated as QIBs in terms of Regulation 2(1)(ss) of ICDR Regulations. There are certain benefits available to QIBs under ICDR Regulations and other SEBI Regulations.

3.2. In order to prevent AIFs from facilitating investors who are otherwise ineligible for QIB status on their own, in availing benefits designated for QIBs, the following is specified –

3.2.1. For every scheme of AIFs having an investor, or investors belonging to the same group, who contribute(s) 50 percent or more to the corpus of the scheme, necessary due diligence as per the implementation standards formulated by Standard Setting Forum for AIFs ('SFA'), shall be carried out prior to availing benefits available to QIBs under ICDR Regulations and other SEBI Regulations.

4. **Investors availing benefits designated for Qualified Buyers (QBs) through AIFs:**

4.1. AIFs have been notified as QBs in terms of clause (u) of sub-section (1) of section 2 of SARFAESI Act, and therefore, are eligible to subscribe to Security Receipts (SRs) issued by an Asset Reconstruction Company (ARC).

4.2. In order to prevent AIFs from facilitating investors who are otherwise ineligible for QB status on their own, in availing benefits designated for QBs the following is specified:

4.2.1. For every scheme of AIFs having an investor, or investors belonging to the same group, who contribute(s) 50 percent or more to the corpus of the scheme, necessary due diligence as per the implementation standards formulated by SFA, shall be carried out prior to making any investments in SRs issued by ARCs or availing benefits designated for QBs under the SARFAESI Act.

5. **RBI regulated lenders/entities ever-greening their stressed loans/assets through AIFs:**

5.1. To address the issue of ever-greening of stressed loans/assets of RBI regulated lenders/entities through AIFs and to prevent circumvention of norms with respect to Income Recognition, Asset Classification, Provisioning and Restructuring of stressed loans/assets specified by RBI for its regulated lenders, the following is specified –

5.1.1. For every scheme of an AIF:

(a) whose manager or sponsor is an entity regulated by RBI; or,

(b) that has investor(s) regulated by RBI who:

(i) individually or along with investors of the same group contribute(s) 25 percent or more to the corpus of the scheme; or,

(ii) is an associate of the manager/sponsor of the AIF; or,

(iii) by itself, or through its representative(s)/nominee(s), has majority or veto power in voting over decisions of the

investment committee set up by the manager to approve investment decisions of the scheme;

necessary due diligence as per the implementation standards formulated by SFA, shall be carried out. If an investor of the scheme is an AIF, or a fund set up outside India or in International Financial Services Centres in India, then the criteria check for investor(s) regulated by RBI shall be carried out on a look through basis.

5.1.2. For schemes falling under the ambit of provision at para 5.1.1 above, the manager shall ensure that the scheme does not make any investment that would lead to the RBI regulated lender/entity acquiring or holding an interest/exposure in the investee company indirectly (that is, through investment in a scheme of an AIF), that they are not permitted to acquire or hold directly.

6. Schemes of AIFs falling under the ambit of provisions at paras 3.2.1, 4.2.1 and 5.1.1 above, shall proceed with the proposed investment in accordance with the respective implementation standards as formulated by SFA. If the proposed investment does not satisfy the due diligence checks specified by SFA for making investment:

6.1. either such investor or investors of same group as referred at paras 3.2.1, 4.2.1 and 5.1.1 above shall be excluded from the investment, subject to necessary disclosure in the PPM for exclusion of investors; or,

6.2. the investment shall not be made.

7. For schemes of AIFs falling under the ambit of provisions at paras 3.2.1, 4.2.1 and 5.1.1. above, due-diligence checks prescribed as per the implementation standards formulated by SFA shall also be carried out for existing investments held by the schemes as on date of this circular. Upon carrying out the due-diligence checks for existing investments -

7.1. If any of the existing investments of such schemes does not satisfy the due diligence checks for making investment, details of such investments shall be reported to the custodian of the AIF on or before April 07, 2025, in the format as specified at [Annexure I](#).

7.2. If all the existing investments of such schemes satisfy the respective due diligence checks for making investment, then manager of the AIF shall submit an undertaking to this effect to the custodian, on or before April 07, 2025.

8. **Investment from countries sharing land border with India through AIFs:**

8.1. In terms of Rule 6(a) of NDI Rules, a person resident outside India may subscribe, purchase or sell equity instruments of an Indian company in the manner and subject to the terms and conditions specified in Schedule I of NDI

rules, provided that an entity of a country, which shares land border with India or the beneficial owner of an investment into India who is situated in or is a citizen of any such country, shall invest only with the approval of the Government.

8.2. To ascertain whether investors from countries sharing land border with India are investing in Indian companies through AIFs, the following is specified -

8.2.1. For every scheme of AIFs where 50 percent or more of the corpus of the scheme is contributed by investors –

(a) who are citizens of/are from/are situated in a country which shares land border with India, or,

(b) whose beneficial owners, as determined in terms of sub-rule (3) of Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005, are citizens of/are from/are situated in a country which shares land border with India,

necessary due diligence as per the implementation standards formulated by SFA, shall be carried out prior to making any investment.

8.2.2. Upon carrying out the necessary due diligence, such scheme shall report details of its investment, which would result in the scheme holding 10 percent or more of equity/equity-linked securities issued by an investee company (on a fully-diluted basis), to its custodian within 30 days of investment, in the format as may be specified by SFA. Custodians shall compile such information received from AIFs on a monthly basis and report to SEBI within 10 working days from the end of the month.

8.2.3. For schemes of AIFs falling under the ambit of provisions at para 8.2.1. above, details of their existing investments where the scheme holds 10 percent or more of equity/equity-linked securities issued by an investee company (on a fully-diluted basis), shall also be reported to their custodians on or before April 07, 2025, in the format as may be specified by SFA.

9. Custodians shall compile the information reported by AIFs, as referred at paras 7.1, 7.2 and 8.2.3. above, and furnish the same to SEBI on or before May 07, 2025.

10. For the purpose of the provisions of this circular, 'same group' shall mean 'related parties' and 'relatives' as defined in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

11. The implementation standards as mentioned in this circular, formulated by SFA in consultation with SEBI, shall be adopted by AIFs, Managers of AIFs and their Key Management Personnel for compliance with the provisions of this circular. Such



implementation standards shall be published on websites of the industry associations which are part of the SFA, i.e., Indian Venture and Alternate Capital Association (IVCA), PE VC CFO Association and Trustee Association of India, within 1 working day of issuance of this circular.

12. The trustee/sponsor of AIF, as the case may be, shall ensure that the 'Compliance Test Report' prepared by the manager in terms of Chapter 15 of Master Circular for AIFs, includes compliance with the provisions of this circular.
13. This circular shall come into force with immediate effect.
14. This circular is issued with the approval of the competent authority.
15. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992, read with Regulations 20(20) and 36 of AIF Regulations, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
16. The circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the categories "Legal framework - Circulars" and "Info for - Alternative Investment Funds".

Yours faithfully,

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**Implementation standards for specific due diligence of investors and investments of AIFs to prevent facilitation of circumvention through AIFs**

October 09, 2024

- I. With reference to SEBI circular no. SEBI/HO/AFD/AFD-POD-1/P/CIR/2024/135 dated October 08, 2024 on 'Specific due diligence of investors and investments of AIFs' (hereinafter referred as SEBI circular)<sup>1</sup>, the implementation standards to be adopted by AIF industry, as formulated by the Standard Setting Forum for AIFs ('SFA'), are given below.

**A. Investors availing benefits designated for QIBs through AIFs -**

For schemes of AIFs that fall within the ambit of para 3.2.1 of the SEBI circular, the following due-diligence checks shall be carried out by the AIF/manager/their KMPs before the scheme availing any benefit as a QIB under any SEBI Regulations-

- A.1. The manager shall check whether an investor or investors of the same group, who contribute(s) 50 percent or more to the corpus of the scheme, is/are –

- (i) QIBs themselves or,
- (ii) Entities established, owned or controlled by the Central Government or a State Government or the Government of a foreign country, including central banks and sovereign wealth funds.

In case such investor(s) contributing 50 percent or more of the corpus is an AIF or a fund set up outside India or in International Financial Services Centres in India, the manager shall check whether the aforesaid condition is met on a look through basis.

- A.2. If the conditions at para A.1. are met, the scheme may avail benefits as a QIB, provided that, the manager of the AIF independently verifies and provides an appropriate confirmation in this regard to Stock Exchange, Lead Manager or Merchant Banker or any other concerned authority, as the case may be, before availing benefits as QIB.

**B. Investors availing benefits designated for Qualified Buyers (QBs) through AIFs -**

For schemes of AIFs that fall within the ambit of para 4.2.1 of the SEBI circular, the following due-diligence checks shall be carried out by the AIF/manager/their KMPs before making any investments in Security Receipts (SRs) issued by an ARCs or availing benefits designated for QBs under SARFAESI Act, 2002 -

- B.1. The manager shall check whether an investor or investors of the same group, who contribute(s) 50 percent or more to the corpus of the scheme, is/are –

- i. QBs themselves; or,
- ii. Entities established, owned or controlled by the Central Government or a State Government or the Government of a foreign country, including central banks and sovereign wealth funds.

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<sup>1</sup> Upon update to SEBI Master Circular for AIFs for FY24-25, the said reference to circular to be read as reference to corresponding chapter in the updated Master Circular for AIFs

In case the investor(s) contributing 50 percent or more of the corpus is an AIF or a fund set up outside India or in International Financial Services Centres in India, the manager shall check whether the aforesaid condition is met on a look through basis.

B.2. If the conditions at para B.1. are met, the scheme may make investments in SRs issued by an ARC or avail benefits designated for QBs under SARFAESI Act, 2002.

**C. RBI regulated lenders/entities ever-greening their stressed loans/assets through AIFs –**

For schemes of AIFs that fall within the ambit of para 5.1.1 of the SEBI circular, the following due-diligence checks shall be carried out by the AIF/manager/their KMPs, before making an investment -

C.1. The manager shall identify investors of the scheme who are lenders/entities regulated by RBI ('regulated investor') or investors that are funds having contribution from lenders regulated by RBI.

C.2. The manager shall collect details of financial lenders/creditors/investors (regulated by RBI) of the proposed investee company, along with details of its outstanding financial obligations.

C.3. If the regulated investor of the scheme is a lender or investor of the proposed investee company, the manager shall collect details of the financial credit/loan/investment from the books of such regulated investor.

C.4. Upon examining the information collected from regulated investor as above, the manager shall check whether the regulated investor would be in breach of any prohibition or limit or prudential norms with respect to Income Recognition, Asset Classification and Provisioning and Restructuring of stressed assets/loans under following circulars/directions, in case the regulated investor were to directly lend to/invest in proposed investee company –

a. RBI's Master Circular - Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances;

b. Master Circular - Income Recognition, Asset Classification, Provisioning and Other Related Matters - UCBs; and,

c. Master Direction – Reserve Bank of India (Non-Banking Financial Company – Scale Based Regulation) Directions, 2023.

C.5. If the answer to the due diligence check at stated at para C.4 is 'No', then the scheme may proceed with the investment opportunity, after the manager obtains a confirmation from Chief Compliance Officer or a person of the rank of Chair of the Audit Committee or Chairman of the Board or Executive Director of the regulated investor that:

a. there is no restriction on the regulated investor to lend to or invest in the investee company directly, and

b. if such investment in the proposed investee company through the scheme of AIF, would have required the regulated investor to make any disclosure in terms of circulars provided at para C.4 above, had it been a direct exposure, the necessary

disclosures shall be made to this effect as per the applicable timelines in terms of circulars provided at para C.4 above.

**D. Investment from countries sharing land border with India through AIFs -**

For schemes of AIFs that fall within ambit of para 8.2.1 of the SEBI circular, if the proposed investment would result in the scheme holding 10 percent or more of equity/equity-linked securities issued by the company (on a fully-diluted basis), the following due-diligence checks shall be carried out -

- D.1. The manager shall collect information on country of investors of the scheme and their beneficial owners.
- D.2. The manager shall check whether 50 percent or more of the corpus of the scheme is contributed by investors, who themselves or their beneficial owners, are citizens of/are from/are situated in a country which shares land border with India ('LBC').
- D.3. If yes, the manager of AIF shall report the following information to custodian, within 30 days of the said investment of the scheme:

Particulars	Information submitted by the AIF	
Name of AIF		
Registration no. of AIF		
Name of scheme		
Total commitment received by the scheme (INR Cr.)		
Total no. of investors from Land Bordering Countries (LBCs)		
Total commitment of investors from LBCs (INR Cr.)		
Total value of equity/equity linked instruments issued (post investment) by investee company (INR Cr.)		
Value of equity/equity linked instruments acquired by scheme of AIF in investee company (INR Cr.)		
Type of security/instrument of investee company acquired by the scheme		
Percentage of equity holding of scheme in investee company, on a fully diluted basis		
<b><i>Details of LBC investor or investors having LBC beneficial owner –</i></b>		
<b>Name of investor</b>	<b>Country of the LBC investor/beneficial owner</b>	<b>Contribution in the investment</b>

- D.4. In reference to para 8.2.3 of the SEBI circular, schemes of AIFs falling under the ambit of provisions at para 8.2.1. of the SEBI circular, shall report details of their existing investments where the scheme holds 10 percent or more of equity/equity-linked

securities issued by an investee company (on a fully-diluted basis), to their custodians on or before April 07, 2025, as per the format at para D.3 above.

**II. Proposed investments not meeting the due-diligence checks –**

In case a proposed investment of a scheme does not satisfy the due -diligence checks for making investment as given at para A, B and C above, then either the proposed investment shall not be made; or such investor or investors of same group as referred in referred in para 3.2.1, 4.2.1 and 5.1.1 of the SEBI circular shall be excluded from the said investment, subject to necessary disclosure in the PPM for exclusion of investors.

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