New SEBI Guidelines

SEBI (Alternate Investment Funds) Regulations 2012

a) SEBI notified its new guidelines related to regulation of AIFs on 21st May 2012. These guidelines provide a framework within which VC funds like YourNest Angel fund will be governed and regulated, going forward.

b) The AIF Regulations have defined a VC Fund to mean a Fund *which invests primarily in unlisted securities of start ups, emerging to early stage venture capital undertakings mainly involved in new products, new service, technology or intellectual property right based activities or a new business model.* The long desired distinction for **VC Fund is categorised as a Category I AIF**.

c) The Category 1 AIF are Funds which invests in start-up or early stage ventures or social ventures or SMEs or infrastructure or other sectors or areas which the government or regulators consider as socially or economically desirable and shall include venture capital funds, SME Funds, social venture funds, infrastructure funds and such other Alternative Investment Funds as may be specified.

d) The regulator has stated that the Category 1 AIF are generally perceived to have positive spill-over effects on economy and for which SEBI or Government of India or other regulators in India might consider providing incentives or concessions shall be included and such funds which are formed as trusts or companies shall be construed as —venture capital company or —venture capital fund as specified under sub-section (23FB) of Section 10 of the Income Tax Act, 1961.

e) The AIF Regulations require the Manager to make a GP Commitment of at least 2.5% of the corpus of the Fund, or INR 5 crores, whichever is lower.

f) Venture capital is a high-risk investment meant only for the sophisticated Investors. The AIF Regulations now mandate better transparency and disclosures with detailed reporting to the Investors. The report to the Investors must specifically cover information regarding financials, risk management, operation, portfoliotransactions, any material liability, breach of provisions of the Placement Memorandum, change of control of the fund, financial information of the investee company, the material risks at the fund level etc. The Manager is also required to maintain internal records describing the rationale for investments made and investment strategies followed.

g) The AIF Regulations also seek to empower Investors by giving them certain rights in the Fund. Any material alteration in the Fund strategy will require consent of at least 2/3 Investors.

h) Henceforth, all Funds operating in India will need to be registered with SEBI. Existing Funds registered with SEBI under the VCF Regulations are however grandfathered till end of their tenure with a restriction on increasing targeted corpus / launching new schemes. However, these VCFs also have an option to re-register as AIFs subject to Investor approval. All existing VCFs even though not registered under the new Regulations will however be governed by them in so far as their operations are concerned.

i) Overall we feel that the new AIF Regulations is a step in the right direction and will go a long way in building the VC ecosystem in India.

j) The complete Regulations are available on http://www.sebi.gov.in/sebiweb/home/list/1/3/0/0/Regulations