

**Regulatory: Guidelines on disclosures, reporting and clarifications under AIF Regulations (Circular dated June 19, 2014 CIR/IMD/DF/14/2014)**

2. Disclosures in placement memorandum

b. Changes to placement memorandum

- i. At the time of submission of final placement memorandum to SEBI, any changes which have been made vis-à-vis the draft placement memorandum submitted to SEBI at the time of application shall be listed clearly in the covering letter. Further, the changes shall also be highlighted in the copy of the final placement memorandum.
- ii. Further, it has been observed in several cases that changes are being made to the placement memorandum without intimation to or consent from unit holders, which is not in the interest of the investors.
- iii. All AIFs shall intimate any change to the placement memorandum to all unit holders (including investors who have provided commitment to the AIF) within 7 days of making such change, specifically indicating the changes made. Such changes shall also be intimated to SEBI.
- iv. However, in cases of material changes significantly influencing the decision of the investor to continue to be invested in the AIF, the process as mentioned hereunder shall be complied with. Such changes shall include, but not be limited to the following:
  - a. Change in sponsor/manager (*not including an internal restructuring within the group*)
  - b. Change in control of sponsor/manager
  - c. Change in fee structure or hurdle rate which may result in higher fees being charged to the unit holders

The following process shall be followed by the AIF:

- a. Existing unit holders who do not wish to continue post the change shall be provided an exit option. The unit holders shall be provided not less than one month for expressing their dissent.
- b. In case the scheme of the AIF is open-ended, the exit option may be provided by either of the following:
  - (1) Buying out of units of the dissenting investors by the manager/ any other person as may be arranged by manager, valuation of which shall be based on market price of underlying assets.
  - (2) Redemption of units of the investors through sale of underlying assets.
- c. In case the scheme of the AIF is close-ended, the exit option may be provided as under:

- (1) The exit option shall be provided by buying out of units of the dissenting investors by the manager/ any other person as may be arranged by manager.
  - (2) Prior to buying out of such units, valuation of the units shall be undertaken by 2 independent valuers and the exit shall be at value not less than average of the two valuations.
- d. The responsibility to provide exit to the dissenting investors shall be on the manager. The expenses for the entire process shall be borne by the manager/sponsor/proposed new manager or sponsor and shall not be charged to the unit holders.
  - e. The entire process of exit to dissenting investors shall be completed within 3 months from the date of expiry of last date of the offer for dissent.
  - f. The trustee of AIF (in case AIF is a trust)/ sponsor (in case of any other AIF) shall be responsible for overseeing the process, ensuring compliance and regularly updating SEBI on the developments.

### 3) Clarification on certain aspects of the AIF Regulations

- With respect to units of AIF issued to the employees of the manager of the AIF for profit-sharing, Regulation 10(c) shall not be applicable in cases where such units do not entail any contribution/investment from the employees.
- With respect to investment by the sponsor/manager in the AIF, the sharing of loss by the sponsor/manager shall not be less than pro rata to their holding in the AIF vis-à-vis other unit holders.
- With respect to Regulation 10(c), an AIF may accept the following as joint investors for the purpose of investment of not less than one crore rupees:
  - i. an investor and his/her spouse
  - ii. an investor and his/her parent
  - iii. an investor and his/her daughter/son
- With respect to the above investors, not more than 2 persons shall act as joint-investors in an AIF. In case of any other investors acting as joint- investors, for every investor, the minimum investment amount of one crore rupees shall apply.
- For the purpose of maintaining continuing interest under Regulation 10(d) of the AIF Regulations, such interest may be maintained pro-rata to the amount of funds raised (net) from other investors in the AIF.
- An AIF shall not invest in units of another AIF unless it is fund of AIFs as specified under the Regulations.
- All circulars/guidelines as may be issued by SEBI with respect to KYC requirements, Anti-Money Laundering and Outsourcing of activities shall be applicable to AIFs and the manager of the AIF shall be responsible for compliance with such circulars/guidelines.

#### 4. Compliance Test Report (CTR)

- a. At end of financial year, the manager of an AIF shall prepare a compliance test report on compliance with AIF Regulations and circulars issued thereunder in the format as specified in the Annexure to this circular.
- b. In case the AIF is a trust, the CTR shall be submitted to the trustee and sponsor within 30 days from the end of the financial year. In case of other AIFs, the CTR shall be submitted to the sponsor within 30 days from the end of the financial year.
- c. In case of any observations/comments on the CTR, the trustee/sponsor shall intimate the same to the manager within 30 days from the receipt of the CTR. Within 15 days from the date of receipt of such observations/comments, the manager shall make necessary changes in the CTR, as may be required, and submit its reply to the trustee/sponsor.
- d. In case any violation of AIF Regulations or circulars issued there under is observed by the trustee/sponsor, the same shall be intimated to SEBI as soon as possible.