



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

CIRCULAR

SEBI/HO/AFD-1/PoD/CIR/P/2022/108

August 17, 2022

To

All Alternative Investment Funds

All Venture Capital Funds [registered under erstwhile SEBI (Venture Capital Funds) Regulations, 1996]

Sir/ Madam,

**Sub: Guidelines for overseas investment by Alternative Investment Funds (AIFs) /
Venture Capital Funds (VCFs)**

1. In terms of Regulation 12(ba) of erstwhile SEBI (Venture Capital Funds) Regulations 1996 and Regulation 15(1)(a) of SEBI (Alternative Investment Funds) Regulations, 2012, AIFs/VCFs may invest in securities of companies incorporated outside India subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and SEBI from time to time.
2. In this regard, the following is specified –
 - (i) AIFs/VCFs shall file an application to SEBI for allocation of overseas investment limit in the format specified at **Annexure A**.
 - (ii) The requirement of the overseas investee company to have an Indian Connection, as specified in para 3(ii) of SEBI Circular No. SEBI/VCF/CIR No. 1/98645/2007 dated August 09, 2007 and para 2(A)(e)(i) and para 2(B)(c)(iv) of SEBI Circular No. CIR/IMD/DF/7/2015 dated October 01, 2015, has been done away with.
 - (iii) AIFs/VCFs shall invest in an overseas investee company, which is incorporated in a country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to the bilateral Memorandum of Understanding with SEBI.
 - (iv) AIFs/VCFs shall not invest in an overseas investee company, which is incorporated in a country identified in the public statement of Financial Action Task Force (FATF) as:
 - (a) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or



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- (b) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with FATF to address the deficiencies.
- (v) If an AIF/VCF liquidates investment made in an overseas investee company previously, the sale proceeds received from such liquidation, to the extent of investment made in the said overseas investee company, shall be available to all AIFs/VCFs (including the selling AIF/VCF) for reinvestment.
- (vi) AIFs/VCFs shall transfer/sell the investment in overseas investee company only to the entities eligible to make overseas investments, as per the extant guidelines issued under the Foreign Exchange Management Act, 1999.
- (vii) AIFs/VCFs shall furnish the sale/divestment details of the overseas investments to SEBI in the format given at **Annexure B** within 3 working days of the divestment, by emailing to aifreporting@sebi.gov.in, for updating the overall limit available for overseas investment by AIFs/VCFs.
- (viii) All the overseas investments sold/divested by AIFs/VCFs till date, shall also be reported to SEBI in the format given at **Annexure B** within 30 days from the date of this circular, by emailing to aifreporting@sebi.gov.in.
3. The Trustee/Board/Designated Partners of the AIFs/VCFs shall submit an undertaking to SEBI as specified at **Annexure A** with respect to the proposed overseas investment.
4. This Circular shall come into force with immediate effect.
5. This circular is issued with the approval of the competent authority.
6. This Circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
7. The circular is available on SEBI website at www.sebi.gov.in under the categories "Legal framework - Circulars" and "Info for - Alternative Investment Funds".

Yours faithfully,

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Annexure A:

Information to be submitted while filing application for allocation of overseas investment limit

A. Details of the proposed overseas investment:

Sr. No.	Information related to	Particulars	Details
1	Applicant and its scheme	a) Name of the Alternative Investment Fund (AIF)/Venture Capital Fund (VCF)	
		b) Category of the AIF	
		c) Registration number	
		d) Name of the scheme	
		e) Name and Address of the branch of the bank through which Foreign Currency Transaction are proposed to made	
		f) Date of filing of periodic investment report on SI Portal for last quarter	
2	Overseas investee company	a) Name of the overseas investee company	
		b) Country of the overseas investee company	
		c) Date of Incorporation of the overseas investee company (also enclose copy of incorporation certificate/document of the overseas investee company)	
		d) Whether any investor of the AIF is a connected person of the overseas investee company. If yes, provide details of the investor and also the said investor's pro-rata share in the proposed investment.	
		e) In case of Angel Fund, the number of investors participating in the proposed overseas investment	
3	Details of investment	a) Type of instrument(s) in which the investment is proposed	
		b) Nature of investment	(Primary subscription, secondary purchase, etc.)
		c) Amount proposed to be invested (in USD)	
		d) Amount invested in previous overseas investments (in USD)	
		e) Investible corpus of the scheme of the AIF/VCF (in INR)	



B. Details of overseas investments made by the Scheme in the past:

Sr. No.	Name of overseas investee company	Date of SEBI communication	Amount allocated by SEBI (in USD)	Amount invested (in USD)	Date of investment	Date of reporting of investment to SEBI	Amount surrendered (in USD)	Date of reporting of the amount surrendered to SEBI	Whether the investment is sold/divested	If yes,		
										Amount received (in USD)	Date of sale/divestment	Date of reporting of the sale/divestment

C. Undertaking to be submitted by the Trustee/Board/Designated Partners of the AIF/VCF (as applicable depending on the form of AIF/VCF):

We have carried out independent due diligence with respect to the proposed investment in [name of the overseas investee company] by [name of the scheme and the AIF] and we are satisfied that –

- the proposed overseas investment transaction is bona fide in nature
- the proposed overseas investment is consistent with the investment objective of the scheme
- the proposed overseas investment is in compliance with the regulatory frameworks for overseas investment by AIFs/VCFs.

D. Undertaking to be submitted by the Manager of the AIF/VCF:

- The manager has exercised due diligence with respect to the investment decision.
- The proposed investment is in [name of instrument], which is an equity/equity linked instrument.
- [name of the overseas investee company] is an offshore venture capital undertaking i.e. it is a foreign company whose shares are not listed on any of the recognized stock exchange in India or abroad.
- [name of the overseas investee company] is incorporated in a country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to the bilateral Memorandum of Understanding with SEBI.
- [name of the overseas investee company] is not incorporated in a country identified in the public statement of Financial Action Task Force (FATF) as –
 - a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or



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- (b) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with FATF to address the deficiencies
6. The AIF/VCF shall not invest in Joint venture/Wholly Owned Subsidiary while making overseas investments.
 7. The AIF/VCF shall adhere to FEMA Regulations and other guidelines specified by RBI from time to time with respect to any structure which involves Foreign Direct Investment under Overseas Direct Investment route.
 8. The AIF/VCF shall comply with all requirements under RBI guidelines on opening of branches/subsidiaries/Joint venture /undertaking investment abroad by NBFCs, where more than 50% of the funds of the AIF/VCF has been contributed by a single NBFC.
 9. In case the AIF/VCF transfers/sells the invested stake in [name of the overseas investee company] to any entity, it shall be ensured that the entity is eligible to make overseas investments, as per the extant FEMA guidelines.

(Note: The aforesaid undertakings at para C and D above are to be submitted in place of the declarations specified in Annexure of SEBI Circular CIR/IMD/DF/7/2015 dated October 1, 2015)



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Annexure B:
Information with respect to sale/divestment of overseas investment

Sr. No.	Information related to	Particulars	Details
1	Details of AIF/VCF	a) Name of the AIF/VCF	
		b) Category of the AIF	
		c) Registration number	
2	Details of investment which has been sold/divested	a) Date of filing of application with SEBI for allocation of overseas investment limit for the said investment	
		b) Application number provided in SEBI Intermediary portal	
		c) Name of the overseas investee company and country of incorporation	
		d) Date of investment	
		e) Type of securities/instruments purchased	
		f) Amount invested in the overseas investee company (in USD Million)	
3	Details of sale/divestment	a) Date of receipt of sale/divestment proceeds	
		b) Amount received (in USD Million)	
		c) Proportionate cost of investment in case of partial sale/divestment (in USD Million)	