

# Info Capsule

7<sup>th</sup> February, 2020



THE INSTITUTE OF  
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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## **1. DISCLOSURE STANDARDS FOR ALTERNATIVE INVESTMENT FUNDS (AIFs) – Circular No. - SEBI/HO/IMD/DF6/CIR/P/2020/24 (Dated 5<sup>th</sup> February, 2020)**

1. As a part of SEBI's initiatives to streamline disclosure standards in the growing AIF space, SEBI through a Consultation Paper dated December 4, 2019 sought public comments on 'Introduction of Performance Benchmarking' and 'Standardization of Private Placement Memorandum (PPM) for AIFs'. Considering inputs from public consultation and deliberations in Alternative Investment Policy Advisory Committee (AIPAC), it has been decided to introduce template(s) for PPM, subject to certain exemptions, and mandatory performance benchmarking for AIFs with provisions for additional customized performance reporting.
2. PPM is a primary document in which all the necessary information about the AIF is disclosed to prospective investors. To ensure that a minimum standard of disclosure is made available in the PPM, it has been decided to mandate a template for the PPM providing certain minimum level of information in a simple and comparable format. AIFs are also permitted to provide additional information in their PPM.
3. The template for PPM shall have two parts viz.  
Part A – section for minimum disclosures, and  
Part B – supplementary section to allow full flexibility to the Fund in order to provide any additional information, which it deems fit.
4. The template for PPM of AIFs raising funds under Category I and Category II is provided at Annexure 1. The template for PPM of AIFs raising funds under Category III is provided at Annexure 2 of the circular.
5. Further, in order to ensure compliance with the terms of PPM, it will be mandatory for AIFs to carry out an annual audit of such compliance. The audit shall be carried out by either internal or external auditor/legal professional. However, audit of sections of PPM relating to 'Risk Factors', 'Legal, Regulatory and Tax Considerations' and 'Track Record of First Time Managers' shall be optional.
6. The findings of the audit, along with corrective steps, if any, shall be communicated to the Trustee or Board or Designated Partners of the AIF, Board of the Manager and SEBI.
7. The terms of contribution or subscription agreement (by any name as it may be called), shall be aligned with the terms of the PPM and shall not go beyond the terms of the PPM.

8. The requirements as mentioned at para no. 2 and 5 above shall not apply to the following:
  - (i) Angel Funds as defined in SEBI (Alternative Investment Funds), Regulations 2012.
  - (ii) AIFs/Schemes in which each investor commits to a minimum capital contribution of INR 70 crores (USD 10 million or equivalent, in case of capital commitment in non-INR currency) and also provides a waiver to the fund from the requirement of PPM in the SEBI prescribed template and annual audit of terms of PPM, in the manner provided at Annexure 3.
9. The aforesaid requirements shall come into effect from March 01, 2020.

### **Performance Benchmarking of AIFs**

Based on the request of the industry, it was considered appropriate that an industry benchmark be developed to compare the performance of AIF industry against other investment avenues, as also global investment opportunities. Accordingly, a proposal for performance benchmarking of AIFs was incorporated in the aforementioned Consultation Paper.

As the industry needs the flexibility to showcase its performance based on different criteria and benchmarking of performance of AIFs will help investors in assessing the performance of the AIF industry, it is decided to introduce:

- a. Mandatory benchmarking of the performance of AIFs (including Venture Capital Funds) and the AIF industry.
- b. A framework for facilitating the use of data collected by Benchmarking Agencies to provide customized performance reports.

Operational guidelines for performance benchmarking and other details are provided in the circular.

The circular is available at: <https://www.sebi.gov.in/legal/circulars/feb-2020/disclosure-standards-for-alternative-investment-funds-aifs-45919.html>

## ***2. SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUING OBSERVATIONS ON DRAFT OFFER DOCUMENTS PENDING REGULATORY ACTIONS) ORDER, 2020- GENERAL ORDER NO 1 OF 2020 (Dated 5<sup>th</sup> February, 2020)***

SEBI has issued a General Order called the Securities and Exchange Board of India (Issuing Observations on Draft Offer Documents Pending Regulatory Actions) Order, 2020 and shall come into force with immediate effect. to formalize the issuance of observations on draft offer documents filed with the Board, where an investigation, enquiry, adjudication, prosecution, disgorgement, recovery or other regulatory action is pending against the issuer or its promoter(s)/director(s)/group companies ("the entities").

This General Order supersedes the Securities and Exchange Board of India (Issuing Observations on Draft Offer Documents Pending Regulatory Actions) Order, 2006, as amended on March 31, 2008 by the General Order no. 1 of 2008.

### **The Order provides for the following:**

1. **Treatment where there is a probable cause for investigation or enquiry or when an investigation or enquiry is in progress against the entities.**
2. **Treatment where show cause notice has been issued.**

3. Treatment where recovery proceedings have been initiated or an order for disgorgement or monetary penalty has not been complied with or in case of non-compliance with any direction issued by the Board.
4. Reconsideration of proceedings pursuant to remand by the Securities Appellate Tribunal or court.
5. Issuance of observations when the issuer is restrained by a court from making a public issue or filing of offer document.
6. Issuance of observations do not indicate exoneration.
7. Removal of difficulties.

The order is available at: [https://www.sebi.gov.in/legal/general-orders/feb-2020/sebi-issuing-observations-on-draft-offer-documents-pending-regulatory-actions-order-2020\\_45903.html](https://www.sebi.gov.in/legal/general-orders/feb-2020/sebi-issuing-observations-on-draft-offer-documents-pending-regulatory-actions-order-2020_45903.html)

***3. DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION (DICGC) INCREASES THE INSURANCE COVERAGE FOR DEPOSITORS IN ALL INSURED BANKS TO RS. 5 LAKH***

With a view to providing a greater measure of protection to depositors in banks the Deposit Insurance and Credit Guarantee Corporation, a wholly owned subsidiary of the Reserve Bank of India, has raised the limit of insurance cover for depositors in insured banks from the present level of `1 lakh to `5 lakh per depositor with effect from February 4, 2020 with the approval of Government of India.

The Press Release is available at:  
<https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR18780D756E42C4CD4326AEBD8A3F6B9ACC7B.PDF>