



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)



Women & Young Members Excellence Committee

Organises

Sky High Symposium-79



CA. Priti Paras Savla
Chairperson, WYMEC, ICAI



CA. Abhay Chhajed
Vice Chairman, WYMEC, ICAI



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Sky High Symposium-79 - November 15, 2023



CA Prachi Jain

Co-founder and CSO - Ednovate

Top 100 Women in Finance, 2020 - AIWMI

Mumbai Women Leader - World Women Leadership Congress

ALTERNATIVE INVESTMENT FUND (‘AIF’)

REGULATORY SNAPSHOT

- ❑ The Securities and Exchange Board of India **(Venture Capital Fund) Regulations, 1996 ('Venture Fund Regulations')** was introduced by the Securities and Exchange Board of India ('SEBI') to regulate all types of private pools of capital in India
- ❑ The largest block deal happened on India Stock Exchange in late 2004, where Warbug Pincus exited from Bharati Airtel at \$ 2 billion exit
- ❑ In 2005, this alternative asset class picked up and global investors started looking at India as an Investment destination.
- ❑ Foreign Direct Investment ('FDI') Regulations ensured lot of sectors are bought under the automatic route and sensitive sectors were opened with restrictions.
- ❑ The VCF Regulations was repealed and new regulation was introduced by SEBI which provides more clarity and covered the ambiguities in earlier regulations.

REGULATORY SNAPSHOT

- ❑ The Securities and Exchange Board of India (**Alternative Investment Funds) Regulations, 2012 ('AIF Regulations')** was introduced by the Securities and Exchange Board of India ('SEBI') to regulate all types of private pools of capital in India;
- ❑ AIF Regulations defines AIF as
 - ✓ “any fund established or incorporated in India in the
 - ❖ **form of a trust** or
 - ❖ a **company** or
 - ❖ an **LLP** or
 - ❖ a **body corporate**
 - ✓ which is a **privately pooled investment vehicle** which
 - ❖ collects funds from **investors**, whether Indian or foreign, for investing
 - ❖ In accordance with a defined **investment policy for the benefit of its investors**”
 - ✓ is **not covered** under the
 - ❖ Securities and Exchange Board of India (**Mutual Funds**) Regulations, 1996,
 - ❖ Securities and Exchange Board of India (**Collective Investment Schemes**) Regulations, 1999
 - ❖ or any other regulations of the Board **to regulate fund management activities**

REGULATORY SNAPSHOT

- ❑ **Exclusions:-** Proviso to the definition of AIF provides that following shall not be considered as an AIF if,
- i. **family trusts** set up for the benefit of 'relatives' as defined under 2 [Companies Act, 2013]; (
 - ii. **ESOP Trusts** set up under the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014 or as permitted under Companies Act, 2013;]
 - iii. **employee welfare trusts** or gratuity trusts set up for the benefit of employees; (iv) 4 ['holding companies' as defined under sub-section 46 of section 2 of Companies Act, 2013;
 - iv. **other special purpose vehicles not established by fund managers**, including securitization trusts, regulated under a specific regulatory framework;
 - v. **funds managed by securitisation company or reconstruction company** which is registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; and
 - vi. any **such pool of funds** which is directly **regulated by any other regulator** in India;

CATEGORIES OF AIF

As per provisions of AIF Regulations, there are 3 categories of AIF

	Category 1	Category 2	Category 3
DEFINTION	<input type="checkbox"/> which invests in sectors or areas which the government or regulators consider as socially or economically desirable <ul style="list-style-type: none"> ✓ start-up or early stage ventures ✓ social ventures ✓ SMEs ✓ infrastructure or ✓ Other sectors 	<input type="checkbox"/> Doesn't fall in Category I and III <input type="checkbox"/> Doesn't undertake leverage or borrowing other than to meet day-to-day operational requirements and as permitted in these regulations	<input type="checkbox"/> which employs diverse or complex trading strategies and <input type="checkbox"/> may employ leverage including through investment in listed or unlisted derivatives
TYPES	<input type="checkbox"/> Angel Fund <input type="checkbox"/> Venture Capital Fund <input type="checkbox"/> SME and Social Venture Fund <input type="checkbox"/> Infrastructure Fund	<input type="checkbox"/> Private Equity Fund <input type="checkbox"/> Structured Credit Funds <input type="checkbox"/> Debt Funds <input type="checkbox"/> Real Estate Funds	<input type="checkbox"/> Long Only Funds <input type="checkbox"/> Long-short Funds <input type="checkbox"/> Hedge Funds and other funds
APPLICATION FEES	INR 1 lakh	INR 1 lakh	INR 1 lakh
REGISTRATION FEES	INR 5 lakhs (Angel Fund - INR 2 lakhs)	INR 10 lakhs	INR 15 lakhs

CATEGORIES OF AIF

	Category 1	Category 2	Category 3
OPEN ENDED OR CLOSE ENDED	CLOSE ENDED FUND	CLOSE ENDED FUND	OPEN OR CLOSE ENDED
MINIMUM TENURE	3 YEARS	3 YEARS	NA
INVESTMENT AMOUNT - investable funds in an Investee Company	<p><=25% - directly or through investment in the units of other AIF</p> <p><=50% large value funds for accredited investors</p>	<p><=25% - directly or through investment in the units of other AIF</p> <p><=50% large value funds for accredited investors</p>	<p><= 10%</p> <p><=25% large value funds for accredited investors</p>

Other Investment Conditions applicable to each category of Fund as per SEBI AIF regulation

- Extension of the tenure of the close ended AIF may be permitted up to 2 years subject to approval of **2/3 rd of the unit holders by value** of their investment in AIF
- Large value funds for accredited investors may be permitted to extend its tenure beyond 2 years - subject to terms of the fund documents and conditions as may be specified by the Board from time to time

Funds raised - as on June 30, 2022

As on October 2023, total of 1180 AIF are registered with SEBI. The details of total funds raised, and investment made by different categories as on June 30, 2022 are

INR Crs			
Category	Commitments raised	Funds Raised	Investments Made
Category I	58,120	32,413	25,782
Category II	5,61,919	2,40,311	2,20,406
Category III	74,480	66,264	65,154

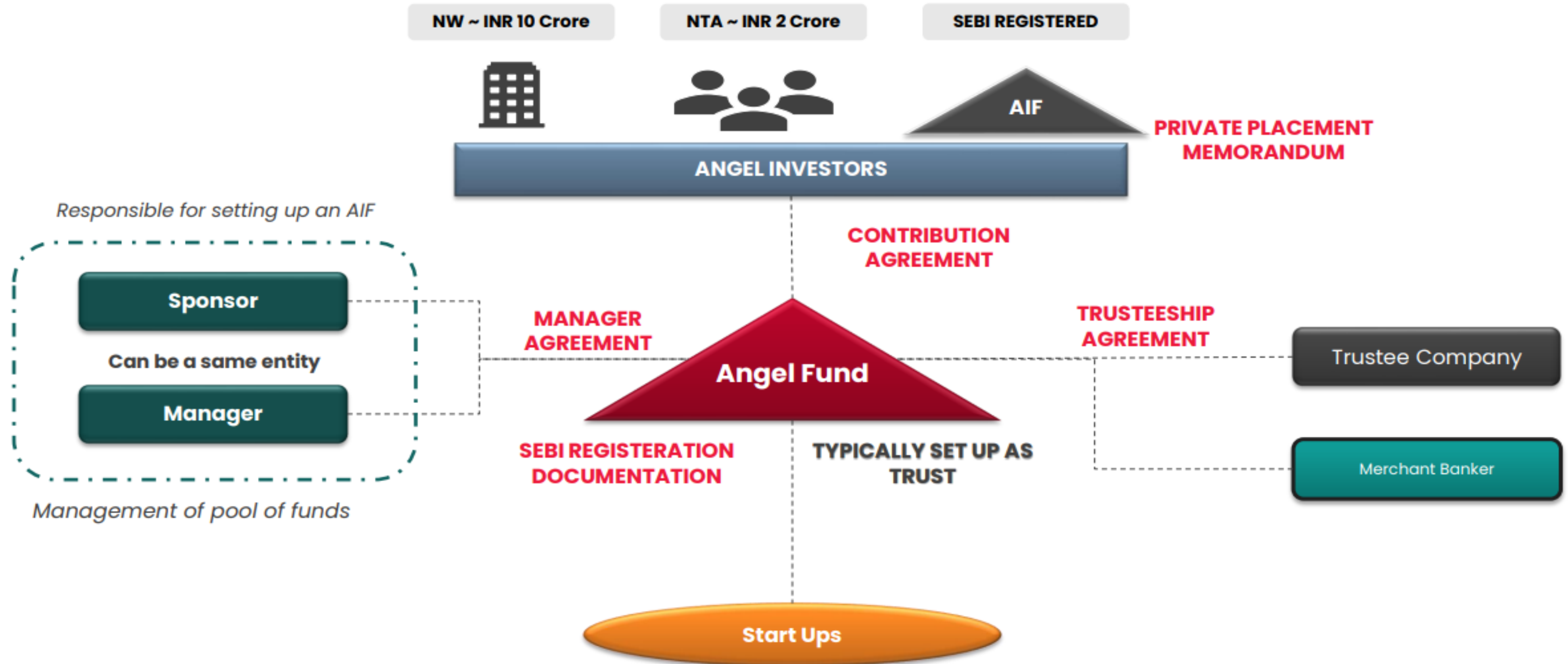
Source : SEBI - Data relating to activities of Alternative Investment Funds (AIFs)

- ❑ Private placement memorandum - for Investors
 - ❖ investment **strategy**,
 - ❖ investment **purpose**
 - ❖ investment **methodology**
- ❑ Any material alteration to the fund strategy
 - ❖ shall be made with the **consent of at least 2/3rd of unit holders** by value of their investment in the AIF.

AIF - INVESTMENT CONDITIONS & RESTIRCTIONS

Corpus of each scheme	INR 20 crore (Social Impact Fund - Corpus - INR 5 crores)
Issuance of Units	Dematerialised form (Social units for social funds)
Investment Amount (from Investor) (Investment Limit not applicable to an accredited investor)	<ul style="list-style-type: none">❖ \geq INR 1 crore❖ \geq INR 25 Lakhs - for employees or directors of the AIF/ Investment Manager❖ \geq INR 2 lakhs - social impact fund which invests only in securities of not for profit organizations registered or listed on a social stock exchange
Continuing Interest - Manager or Sponsor	<ul style="list-style-type: none"><input type="checkbox"/> Cat 1 and Cat 2 - \geq 2.5% of the corpus or INR 5 crores, whichever is lower<input type="checkbox"/> Cat 3 - \geq 5% of the corpus or INR 10 crore rupees, whichever is lower <p>Such interest shall not be through the waiver of management fees</p>
No of Investors	<ul style="list-style-type: none"><input type="checkbox"/> \leq 1000 investors<input type="checkbox"/> In case Fund is set up as Company - provisions of the Companies Act, 2013 is applicable
Solicit or collect funds	Only by way of private placement

AIF - TYPICAL AIF STRUCTURE



WHO CAN INVEST IN AN ANGEL FUND ?

“Angel investor” - any person who proposes to invest in an angel fund and satisfies one of the following conditions, namely,

- ☐ **individual investor** - NTA - \geq INR 2 crore excluding value of his principal residence
- ☐ **body corporate** - NW - \geq INR 10 crore
- ☐ **AIF** registered under these regulations or a registered **Venture Capital Fund**

WHERE AN ANGEL FUND CAN INVEST ?

“Startup” means a private limited company or a limited liability partnership and which is/has:

- ☐ **Time** - Within 10 years from the date of its incorporation;
- ☐ **Turnover** - \leq INR 100 crores
- ☐ Not promoted by an industrial group whose group turnover exceeds 300 crore rupees
- ☐ Not a company which has a family connection with any of the angel investors

KEY REGULATORY CONDITIONS - ANGEL FUND

Basis	Details
Legal Form of Angel Fund	Typically structured as Trust
Minimum Corpus of Angel Fund	INR 5 Crores
Minimum Investment per investor	INR 25 Lakh
Maximum Investor per scheme	200
Minimum continuing interest of Sponsor	INR 50 Lacs or 2.5% of the corpus, whichever is lower.
Maximum investment per investee company	Not more than 25% of the total investments under all its schemes in one investee company
Investment Limit per Scheme	Shall not be less than INR 25 lacs and shall not exceed INR 10Cr.
Lock in for investment in investee company	One Year
Investment in Associates	Not Permitted
Tenure	Close ended with minimum tenure of three years from the date of first closing
Co-investment condition for Manager and Sponsors	Manager registered under SEBI (PMS) Regulation can co-invest in an investee company on terms not more favorable than offered to AIF.
Custodian	Mandatory to appoint in case the fund corpus > INR 500crs.
Foreign Investment in AIF	Permissible subject to compliance with FDI regulations. Any investment by an AIF, whose sponsors or managers is owned or controlled by person resident outside India, shall be regarded as Indirect Foreign Investment and will be subject to FDI Regulations.
Overseas Direct Investment	Permissible, subject to SEBI approval upto the maximum limit of USD 1500 Million <ul style="list-style-type: none">- No Indian connection requirement for foreign investee company- Maximum overseas investment concertation limit : 25% of the corpus
Leverage	Not permissible except for meeting temporary funding requirements for not more than thirty days, not more than four occasions in a year and not more than ten percent of the investable funds.
Tax Regulations	Pass through status available to the Angel Fund – Taxation directly in the hands of investor except in the case of PGBP

SETTING UP OF AIF - INITIAL POINTS

S.No.	Particulars
1	Name of the AIF and the Scheme
2	Size and Tenure of the AIF
3	Proposed investors in AIF (can be a resident/non resident/ NRI)
4	Sponsor and Manager of the AIF <ul style="list-style-type: none">- Shareholding pattern of the sponsor/manager entity- Ultimate Beneficial Ownership (UBO) of the sponsor/manager entity- Residential status and citizenship of the UBO of the sponsor/ manager entity
5	Key members of the Investment Team <ul style="list-style-type: none">- <i>Experience of team member in the field of wealth or portfolio management or securities trading</i>
6	Proposed Hurdle Rate
7	Proposed charges relating to the AIF (i.e. Management Fees, Operating Expenses, Set Up Fees, Placement Fees etc)
8	Investment Objectives, Strategy, Conditions/Restrictions & Procedures <ul style="list-style-type: none">- Targeted sectors for investment- Typical Ticket Size
9	Reinvestment or Co-investment Strategy

Question and Answer...



Thank You

Women & Young Members Excellence Committee

 **011-30110573**

 **wmec@icai.in**

 **www.wmec.icai.org**

 **ICAI Bhawan,
3rd Floor, Annexe Building
Indraprastha Marg, New Delhi**