



*SEBI spells out AIF managers' investment teams professional qualification, investment committee's obligations | Clarification on Manipulative, fraudulent and an unfair trade practice in the securities market*

INSIGHTS

October 20, 2020

Dear Readers,

In continuation of SEBI board meeting dated [September 29, 2020](#), certain key decisions with respect to the fund managers and investment committee of managers of an alternative investment fund (AIF), have been implemented by SEBI with effect from October 19, 2020. Separately, SEBI has clarified as to what constitutes manipulative, fraudulent and an unfair trade practice in the securities market.

The changes that have been implemented by SEBI pursuant to the September 29, 2020 meeting are:

▪ **Change in qualifications of key investment team of the manager:**

Earlier requirements	Changed requirements
Key investment team of the manager of AIF has adequate experience, with at least one key personnel having not less than five years' experience in advising or managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling and dealing of securities or other financial assets and has relevant professional qualification	<p>Key investment team of the manager of AIF has:</p> <ul style="list-style-type: none"> <li>▪ Adequate experience, with at least one key personnel having not less than five years of experience in advising or managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling and dealing of securities or other financial assets; and</li> <li>▪ At least one key personnel with professional qualification in finance, accountancy, business management, commerce, economics, capital market or banking from a university or an institution recognized by the Central Government or any State Government or a foreign university, or a CFA charter from the CFA institute or any other qualification as may be specified by SEBI.</li> </ul> <p>Aforementioned requirements can be fulfilled by the same key personnel.</p>

▪ **Investment Committee (IC) members to share equal responsibilities with the Manager & other obligations**

In another important change, SEBI has provided that the fund manager shall be responsible for investment decisions of the AIF provided that the manager may constitute an IC (by whatever name it may be called), to approve investment decisions of the AIF, subject to the following:

- **Equal responsibilities of IC members and the manager:** The members of IC shall be equally responsible as the manager for investment decisions of the AIF;
- **Joint and several liability with the compliance:** The manager and members of the IC will be required to jointly and severally ensure that the investments of the AIF are in compliance with the provisions of AIF regulations, the terms of the placement memorandum (PPM), agreement made with the investor, any other fund documents and any other applicable law;
- **IC's external members to be inducted subject to approval of 75% investors by value:** External members whose names are not disclosed in the PPM or agreement made with the investor or any other fund documents at the time of onboarding investors, shall be appointed to the IC only with the consent of at least seventy five percent (75%) of the investors by value of their investment in the AIF or scheme.
- **Other conditions:** SEBI has retained the power to provide any other conditions from time to time.

Aforementioned changes have been implemented vide SEBI (Alternative Investment Funds) (Amendment) Regulations, 2020 dated October 19, 2020 ([available here](#)).

Separately, the clarification issued by SEBI as to what constitutes manipulative, fraudulent and an unfair trade practice in the securities market is as follows:

### What constitutes “manipulative, fraudulent and an unfair trade practice in the securities market” under PFUTP Regulations

As per regulation 4 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (**PFUTP Regulations**), no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets. In this context, SEBI has clarified that any act of diversion, misutilization or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

Aforementioned clarification has been provided vide the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Second Amendment) Regulations, 2020 dated October 19, 2020 ([available here](#)).

We trust that you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at [insights@elp-in.com](mailto:insights@elp-in.com)

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