

INDIA LEGAL UPDATE

December 21, 2023

RBI tightens norms for lenders investing in AIFs

Notification Date:

December 19, 2023

Effective Date:

December 19, 2023

Legal Framework:

Reserve Bank of India Act,
1934

Banking Regulations Act,
1949

Government Authority:

Reserve Bank of India
(RBI)

Weblink:

[RBI Notification](#)

LEGAL UPDATE

To address concerns relating to extending a new loan to a borrower to repay an older debt, RBI has advised that Regulated Entities (REs) shall not make investments in any scheme of Alternate Investment Funds (AIFs) that has downstream investments either directly or indirectly in a debtor company of the RE.

Meaning of Debtor Company: The debtor company of the RE shall mean any company to which the RE currently has or previously had a loan or investment exposure anytime during the preceding 12 months.

Applicability:

- All Commercial Banks
- All Primary (Urban) Co-operative Banks / State Co-operative Banks / Central Co-operative Banks
- All-India Financial Institutions
- *All Non-Banking Financial Companies (NBFCs) (including Housing Finance Companies)*

Liquidation Time:

- Lenders to liquidate such investments within 30 days.
- If lenders are not able to liquidate their investments within this time limit, they have to make 100% provision on such investments.

Priority Distribution Model: Investments by REs in the subordinated units of any AIF scheme with a 'priority distribution model' must also make a full deduction from the REs capital fund.

As per the SEBI [Circular](#) dated November 23, 2022, the 'priority distribution model' means where certain schemes of AIFs have adopted a distribution waterfall in such a way that one class of investors (other than sponsors/manager) share loss more than pro rata to their holding in the AIF vis-à-vis other classes of investors/unit holders, since the later has priority over former.

The stricter norms for banks, NBFCs and other regulated REs are introduced to prevent banks from violating exposure and lending norms, as well as closing a pathway for lenders to evergreen loans.

Queries?

If you have any queries about this article, please reach out to our experts:



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