

A photograph of a city skyline at sunset. The sky is filled with orange and yellow clouds, and the sun is low on the horizon, creating a strong glow. Several tall buildings are visible, including a prominent one with a spire. In the foreground, there are lower buildings and a parking lot. A blue banner with white text is overlaid across the middle of the image.

Alternative Investment Fund

Glossary

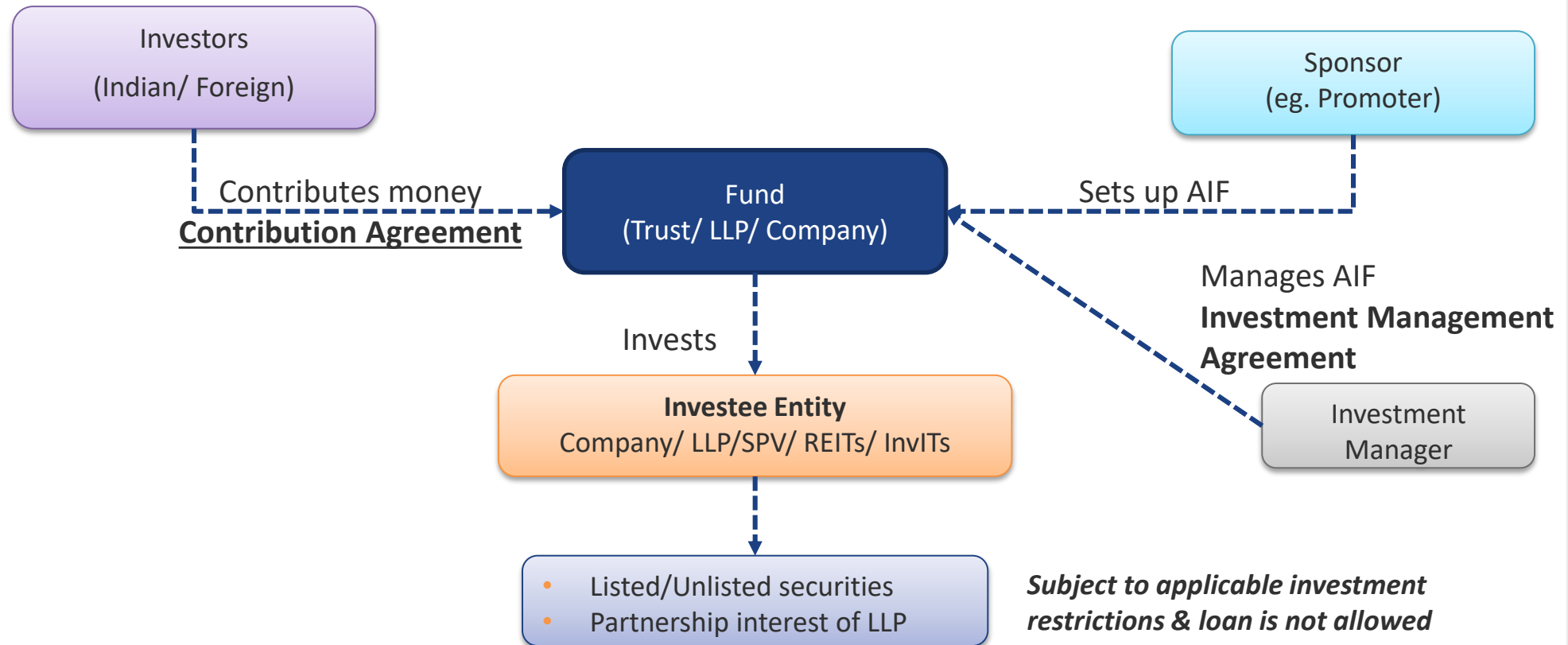
Alternative Investment Fund	AIF
Limited Liability Partnership	LLP
Real Estate Investment Trust	REIT
Infrastructure Investment Trust	InvIT
Special Purpose Vehicle	SPV
Net Asset Value	NAV
Maximum Marginal Rate of Income Tax	MMR
Minimum Alternative Tax	MAT
Venture Capital Fund	VCF
Venture Capital Undertaking	VCU
Small and Medium Enterprises	SME
Private Investment in Public Equity	PIPE
Income-tax Act, 1961	IT Act



What is AIF?

Meaning

AIF: Fund established in India which is a privately pooled investment vehicle which collects funds from Investors for investing as per pre-decided investment policy



Categories of AIF

Category I

- VCF : Min 2/3rd of fund in **unlisted** equity/equity instrument of VCU/ **SME listed** Cos.
- SME Fund : Min 75% of fund in **Unlisted** SME entities /SME Listed Cos.
- Social Venture Fund: Min 75% of funds in social ventures.
- Infrastructure Fund: Min 75% of fund in **Unlisted** entities/ listed debt securities of Infrastructure entities.

Category II

- Invest primarily (i.e >50%*) in **Unlisted** investee entity.
- Also enter hedging subject to SEBI Guidelines
- Eg. Debt Fund, Private Equity Fund
- **Based on SEBI Informal Guidance dated 28th February, 2014*

Category III

- Invest in Listed/ Unlisted investee entity/ derivatives/ complex/ structured products.
- Eg. Hedge Fund, PIPE Fund, Long Only Fund
- ***Hence this AIF can hold investment in Listed, unlisted Equity Shares, other securities, Capital in LLP, Mutual Funds, AIF etc.***

Categories of AIF

Category I

- Leverage : Not Allowed
- Compliances/Restrictions: Moderate
- Close Ended
- No. of AIF Registered as on May 2021: **182**

Category II

- Leverage : Not Allowed
- Compliances/Restrictions: Low
- Closed ended
- No. of AIF Registered as on May 2021: **424**

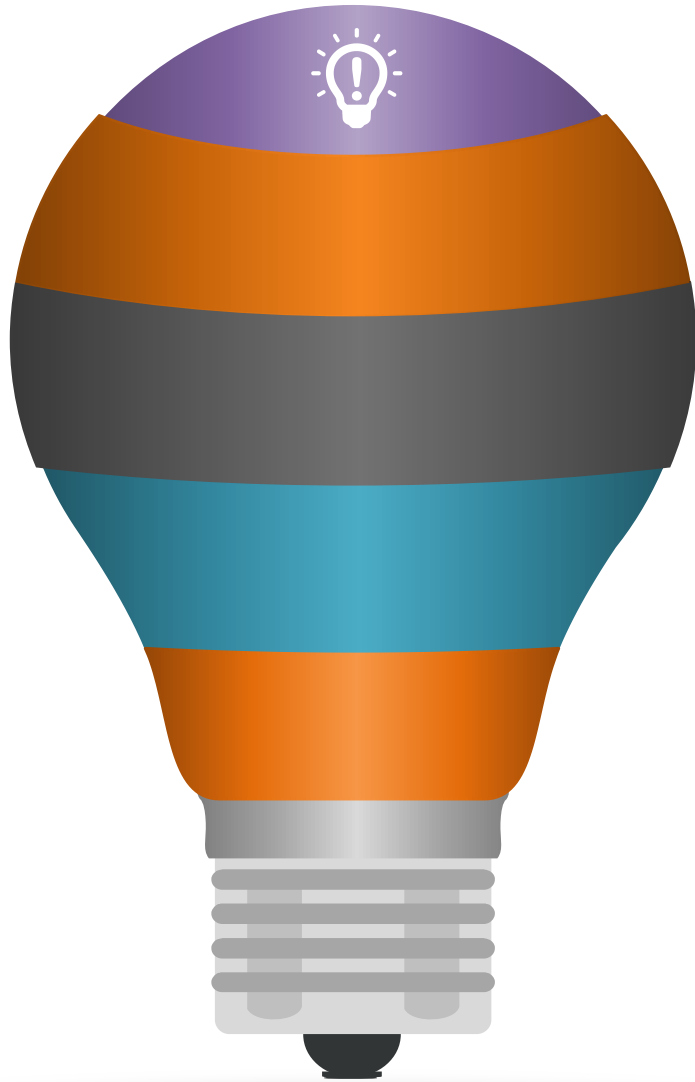
Category III

- Leverage : Allowed (Max. 2 X NAV of Fund)
- Compliances/Restrictions: High
- Close ended or Open Ended
- No. of AIF Registered as on May 2021: **145**

- Category I, II and III are permitted to invest in the units of other AIFs.
- For considering the threshold of maximum investment in an single investee entity (25% or 10% - explained in later slides) , both direct investment and indirect investment through investment in units of other AIFs to be considered.



Why AIF?



Common Structure for holding investments in:

Listed Equity Shares

Unlisted Equity Shares

Debentures

Mutual Funds

Capital in LLP

Preference Shares

Convertible Securities

Units of AIF

Company

- Requires prior NBFC registration from RBI and Subject to Stringent norms of RBI
- Distribution of profits from company gets taxed as dividend (or buy back).

LLP

- ROC and RBI does not permit LLP to carry out Investing activities

Individual/Firm

- As per RBI Act - Individuals, firms and AOP can not do leveraging for Investment activities as principal business.

- **AIF is a SEBI registered entity and is allowed to do Investing activities.**
- **AIF III can do leveraging for such Investing activities (Max. 2 X NAV)**
- **AIF III can invest in Listed/Unlisted Securities, Capital of LLP, Mutual Fund, Other AIFs**

Why Alternative Investment Fund



Foreign Investments in AIF

- AIF to raise funds from any **Investor whether Indian, Foreign or Non-Resident** through the issue of units of the AIF.
- Foreign Investments into an AIF are allowed under **the Automatic route** without sectorial cap.
- AIF can be good vehicle for Non residents for investing in **Real Estate business in India.**



Lower Transaction Cost

- Unlike PMS no Need to Open Separate bank account/DMAT account
- Unlike Mutual Fund, Management cost is negotiable in AIF.

	Mutual Fund	PMS	AIF
Management Charges	2.5% – 3%	2% - 2.5% Fixed Fees, or 1.5% Fixed fee + profit share	1% - 2% Fixed fee + profit share

Why Alternative Investment Fund



Status of Qualified Institutional Buyer (“QIB”)

- **Relaxation from lock in requirement** : No post IPO lock in pre-IPO equity shares held by AIF provided
 - Such shares shall be locked in for min. 6 months from the date of its purchase (hence if holding period is more than 6 months then no lock in)
 - This relaxation does **not apply to Cat III AIF (lock in will be 6 months from the date of listing)**
- **In IPOs there are fixed quotas** for QIB. AIF is considered as QIB. The limit of quotas based on different type of IPO is as under (Reg. 32 of SEBI ICDR).
 - Issue through book building process (where issuer **does not satisfy** min. net worth, tangible asset, operating profit criteria) allocation to QIB - **atleast 75% of offer.**
 - Issue through book building process (where issuer satisfy min. net worth, tangible asset, operating profit criteria) : allocation to QIB – **max. 50% of offer** (out of which 5% should be for Mutual Fund).
 - Fixed Price issue : **No reserved quota** for QIB as per SEBI Regulation
- Only QIBs can to participate in a **Qualified Institutional Placement** (“QIP”).

Why Alternative Investment Fund



Listing of Units of AIF

Units of close ended AIF may be listed on stock exchange subject to a minimum tradable lot of Rs. 1 Cr. Such listing shall be permitted only after final close of the fund or scheme. However, listing on stock Exchanges is purely voluntary.



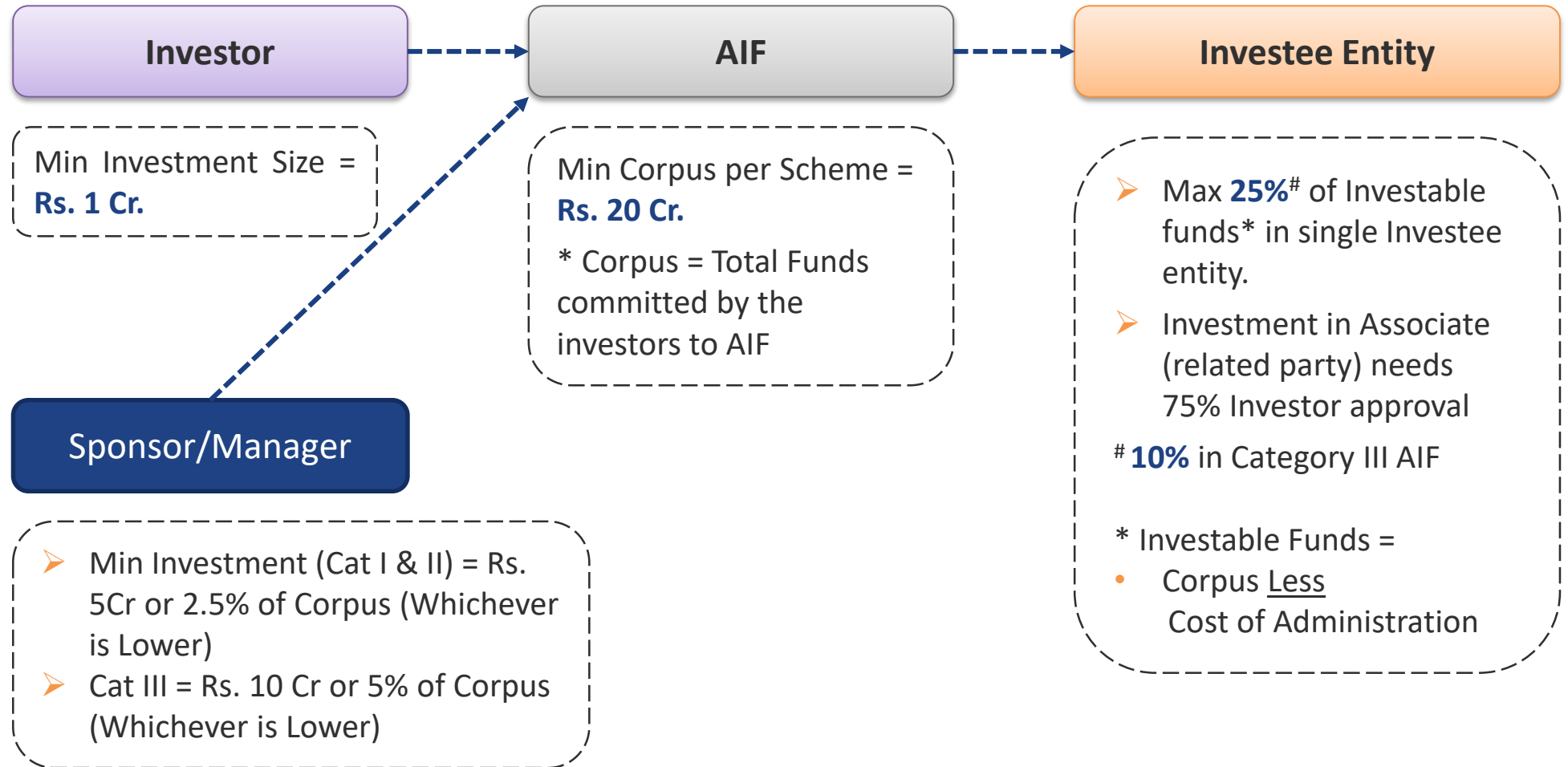
Overseas Investment by AIF

- AIF may invest in Equity and Equity linked instruments of **offshore entities**, subject to overall aggregate limit of USD 1500 Million for all AIFs cumulative
- Conditions:
 - Prior SEBI Approval
 - Max. 25% of Investible Funds of AIF
 - Investment would be made only in those **unlisted companies which have an Indian connection**



Key Aspects of AIF

Investment Size & Restrictions



Type of Income of AIF

Income other than Business income (e.g. Dividend, Interest etc.)

- Taxable to investor [as if direct investment made by him](#) & exempt for AIF
- Withholding by AIF :
 - @ 10% Resident Investor
 - @ Rates in force – Non resident investor
- Other than Business Loss
 - Passed to unit holders, if units are held by them for min.12 months

Business income

- Taxable at AIF level and exempt to investor
- Business Loss -Carried forward at AIF level for set off in future years

Taxation of AIF – Category I & II

- Re-investments possible only on income post withholding tax
- Income received by the AIF to be exempt from deduction of tax at source by portfolio companies
- No distribution tax on income paid / distributed by AIFs

Taxation of AIF – Category III

Tax pass through status has not been accorded to Category III AIFs. Accordingly, the taxability of category III AIFs will be governed by the general principle of taxation (depending on the form in which category III AIF is set up i.e Trust or LLP or company)

- Based on above, Tax Analysis of AIF III incorporated as:

Trust	LLP	Company
<u>Taxability of Income of Fund</u>		
In the hands of Trust or Investors (covered in next slide)	In the hands of LLP	In the hands of Company
<u>Tax on distribution of Income of Fund to investors</u>		
Exempt if Trust has already paid tax on the same	Exempt since share of profit	Dividend Implications

Types of Private Trust

Determinate /specific Trust

- Individual shares of beneficiaries (i.e. Unit holders in case of AIF), are expressly stated in the instrument of trust and are ascertainable as such on the date of such instrument.

Vs.

Indeterminate Trust

- If the trust is not Determinate Trust then it shall be treated as 'Indeterminate Trust'.

Irrevocable Trust

- It is the one that will not come to an end until the terms of the trust have been fulfilled.

Vs.

Revocable Trust

- A trust of this kind can be revoked (cancelled) by its settlor at any time.

Type of Private Trust Structure of AIF

Irrevocable Determinate Trust

- Taxable in the hands of Trustees (as representative) in the same manner as of unitholders & No further tax on Unitholders.
- If there is some business income, then entire income of AIF shall be taxable at **MMR** in the hands of Trustees (as representative)

Irrevocable Indeterminate Trust

- Entire Income (with / without Business Income) of Trust - Taxable at MMR in the hands of trustee (as representative)

Revocable Trust

- Income of the AIF will be taxable in hands of settlor / respective unitholders (proportionate to their contribution in the corpus).
- Trust is not liable to tax.

Process for Registration

Application to SEBI for registration under specific AIF category with Application fees for **Rs 1 Lac** & Details regarding Fund, Sponsor/ Manager, Fund Management activities etc

**Time frame:
3 to 5
months**

SEBI will review application and ask for additional info. (if required) and then gives in principle approval.

Payment of Registration fees based on category of AIF and then SEBI issues Certificate of Registration (Registration fees : Cat I – Rs. 5 Lacs, Cat II Rs. 10 Lacs, Cat III – **Rs. 15 Lacs**)



Compliances

- Report to SEBI about investments, corpus etc:
 - Monthly : For Category III AIF with Leveraging
 - Quarterly : For all other AIFs
- Issuing Compliance Test Report about complying with AIF Regulations
- Conducting PPM Audit
- For Category I and II -Filing of Form 64C and 64D
- Complying with FATCA and CRS regulations



Winding up

- Schemes of Category I and II AIF has to be close ended with Min. tenure of 3 years.
- New Scheme can be floated by AIF by making an application to SEBI with application fees of Rs 1 lac. *However, in case a LLP is registered as AIF, it cannot float more than 1 scheme.*
- Schemes of Category III AIF can be close ended/ open ended.

Disclaimer:

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GBCA
& ASSOCIATES LLP
Chartered Accountants

Address:

Benefice Business House, 3rd
Level, 126, Mathuradas Mills
Compound,
N. M. Joshi Marg, Lower Parel
(W), Mumbai – 400013, India.

Contact Details:

T: +91 22 3321 37 37

F: +91 22 3321 38 38

E: reachus@gbcaindia.com