

GRC BULLETIN

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SEBI

Circular regarding Pro-rata and pari-passu
rights of investors of AIFs

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CORPORATE LAWS

Authority

Securities and
Exchange Board of
India (SEBI)

Circular Date

Dec 13, 2024

Circular Number

SEBI/HO/AFD/AFD-POD-
1/P/CIR/2024/175

Effective Date

Dec 13, 2024

SEBI - SECURITIES AND EXCHANGE BOARD OF INDIA CIRCULAR REGARDING PRO-RATA AND PARI-PASSU RIGHTS OF INVESTORS OF AIFS

Applicability:

Applicable to all Alternative Investment Funds (AIFs) registered under the SEBI (Alternative Investment Funds) Regulations, 2012, including their managers, sponsors, and investors

SEBI's circular dated December 13, 2024, introduces key guidelines on pro-rata and pari-passu rights for investors in Alternative Investment Funds (AIFs). These changes, following amendments to the AIF Regulations, 2012, aim to ensure fairness, transparency, and flexibility in investor rights while setting clear compliance standards for fund managers and schemes.

Pro-rata Rights of Investors

1. Pro-rata Allocation: Investors must have rights proportional to their commitment in both investments and distribution of proceeds unless otherwise specified.
2. Exceptions to Pro-rata Requirement:
 - Investors excused or excluded from specific investments.
 - Investors defaulting on pro-rata contributions.
 - Returns shared by investors with managers/sponsors (e.g., carried interest).
3. Flexibility for Junior/Subordinate Units:
 - Managers, sponsors, or entities like development financial institutions, sovereign wealth funds, etc., can accept lesser returns or greater losses.
 - Funds cannot repay managers/sponsors' obligations using investee company proceeds.

Impact on Existing AIFs

- Priority Distribution Model Restrictions:
AIFs using this model cannot accept new commitments or invest in new companies unless exempted.
- Regulatory Breaches:
Breaches due to compliance with the circular will not count as non-compliance but must be recorded in the Compliance Test Report.

Pari-passu Rights of Investors

- General Rule: All investors in a scheme should have equal rights except under specific conditions approved by SEBI.



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- Differential Rights: Permitted only if:
 - They do not impose liabilities on other investors.
 - They do not alter rights of others.
 - They are transparently disclosed in the PPM (Private Placement Memorandum).

Guidelines for Differential Rights

- Implementation Standards:
SFA (Standard Setting Forum for AIFs) will publish a list of permissible differential rights by January 15, 2025.
- Mandatory Disclosures: Eligibility and opt-in options for differential rights must be detailed in the PPM.

Specific Provisions for Large Value Funds (LVFs)

- Exemption: LVFs may offer differential rights but must:
 - Disclose in PPM.
 - Obtain investor undertakings for waivers.
 - Existing LVFs: Must obtain specific waivers from all investors to continue differential rights.

SOURCE: [Click here for more details](#)



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