Funds Hotline

June 29, 2017

STRUCTURING INDIA FOCUSED FUNDS

- Unified structures have emerged as a preferred choice for structuring India focused funds.
- Such structures are gaining popularity for various commercial, legal and tax reasons which are briefly discussed in our article.
- A unified structure has its unique set of commercial terms which are incorporated in the fund documentation. In our article, we discuss some of the most commonly used fund terms in a unified structure.

In 2012, SEBI took steps to completely overhaul the regulatory framework for domestic funds in India and introduced the AIF Regulations. In 2015, a tax-pass through status had been hardwired for certain categories of AIFs by the Finance Act, 2015. In early 2016, the exchange control norms were revised so that Indian managed and sponsored AIFs receiving foreign investments were put at par with domestic investors vis-a-vis making downstream investments.

According to recent global LP surveys, India is being seen as the most attractive emerging market for allocating fresh commitments. [You may access the survey at http://empea.org/research/2017-global-limited-partners-survey/]. While 2015 and 2016 saw an year-on-year decline in India-focused fund-raising, this may have been due to renewed focus by GPs on deal-making given the dry-powder overhang. However, as GPs hit the road in 2017 for new fund-raises, the year promises to be an interesting vintage for India-focused funds.

To accommodate both domestic investor base and offshore investor base, unified structures have emerged as a preferred choice for structuring India focused funds. There is also an increased participation from development financial institutions ("**DFIs**") in India focused funds, including unified structures. Accordingly, some global benchmarks need to be followed when designing the structure and calibrating the fund documents including the governance, fiduciary aspects and adherence to Environment and Social ("**ESG**") policies.

In our **article published in EMPEA's Legal and Regulatory Bulletin (Spring 2017, Issue no. 21)**, we discuss the 'unified structure' with applicable variations, for India-focused funds as being the most popular choice for managers looking at both offshore and domestic pools of capital and the common fund terms negotiated between LPs and GPs in a unified structure.

You may access our article at: http://www.nishithdesai.com/fileadmin/user_upload/pdfs/NDA%20Hotline/170629_H_PDF_Structuring-India-Focused-Funds.pdf

We also recently hosted our flagship event on Lifecycle of India Focused Funds in New York for LPs, GPs and other stakeholders in the funds industry, where we focused on emerging structures for raising India focused funds, LP expectations (segregated for retail, institutions and DFIs) and held special sessions on Impact Investments and structuring Investments and Exits, particularly in light of the recent Indian legislative changes and the current state of the LP-GP dialogue. You may access the video of our event at: here.

– Richie Sancheti & Nandini Pathak
You can direct your queries or comments to the authors

[1] Agreement For Avoidable Of Double Taxation And Prevention Of Fiscal Evasion With Mauritius, as amended from time to time (available at http://incometaxindia.gov.in/<wbr />Pages/interna□tional-taxation/<wbr />dtaa.aspx)
[2] Agreement for avoidance of double taxation and prevention of fiscal evasion with Singapore (available at http://incometaxindia.gov.in/<wbr />Pages/international-taxation/<wbr />dtaa.aspx)
[3] Agreement For Avoidable Of Double Taxation And Prevention Of Fiscal Evasion With Mauritius, as amended from time to time (available at http://incometaxindia.gov.in/<wbr />Pages/interna□tional-taxation/<wbr />dtaa.aspx)
[4] Agreement for avoidance of double taxation and prevention of fiscal evasion with Singapore (available at http://incometaxindia.gov.in/<wbr />Pages/international-taxation/<wbr />dtaa.aspx)

Research Papers

Handbook on New Labour Codes
April 29, 2024

Compendium of Research Papers
April 11, 2024

Third-Party Funding for Dispute Resolution in India
April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy
January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?
January 23, 2024

Emerging Legal Issues with use of Generative AI
October 27, 2023

Audio

Third-Party Funding: India & the World
April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms
April 15, 2024

The Midnight Clause
February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty
April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

Investment

April 03, 2024

Cyber Incident Response Management

February 28, 2024