

Corpsec Hotline

June 16, 2009

SEBI FII REGULATIONS: CAYMAN ISLANDS' CIMA SET TO BE IN SEBI'S IVY LEAGUE

Recent Development

With the Cayman Islands Monetary Authority ("CIMA") now being admitted as an 'ordinary member'¹ of IOSCO, the investment gateway for investing in the Indian capital markets has opened up for Cayman Islands-based CIMA registered funds and fund managers.

"IOSCO" stands for the International Organization of Securities Commissions. It is a body comprising of securities regulators from across the world and includes the Securities and Exchange Board of India ("SEBI"), which is registered with it as an ordinary member.

IOSCO has been primarily set up to achieve the following objectives, which it seeks to attain through its network of members².

- co-operation to promote high standards of regulation in order to maintain just, efficient and sound markets;
- exchange of information on their respective experiences in order to promote the development of domestic markets;
- unite their efforts to establish standards and an effective surveillance of international securities transactions;
- provide mutual assistance to promote the integrity of the markets by a rigorous application of the standards and by effective enforcement against offenses.

Indian Regulatory Considerations

The SEBI (Foreign Institutional Investors) Regulations, 1995 ("FII Regulations"), require any applicant applying to SEBI for a registration as an FII under the FII Regulations to be regulated by an 'appropriate foreign regulatory authority'. SEBI recognizes 'ordinary member's' of IOSCO as appropriate foreign regulatory authorities.

Implications

The Cayman Islands is a major international financial center with over 9,000 registered funds. With a well-developed financial services sector, hedge funds with global investment strategies have set up their shop in the Cayman Islands. Also, due to its proximity to the United States, Cayman Islands has earned itself a name for being a preferred jurisdiction to U.S. investors.

Due to IOSCO not recognizing CIMA as an 'ordinary member', SEBI did not look favorably at applications made by CIMA registered funds and fund managers. With CIMA now being admitted as an 'ordinary member' of IOSCO, funds and fund managers regulated by CIMA with interest in the capital markets in India may now consider getting themselves registered with the SEBI under the FII Regulations.

Considering that Cayman Islands does not have a tax treaty with India, we may see structures with Cayman Islands based fund's registered as a FII with its wholly owned subsidiary, situated in a tax-favorable jurisdiction, registering as a proprietary sub-account. Alternatively, we may also see Cayman Islands based fund manager's registering as a FII and setting up a pooling vehicle in a tax-favorable jurisdiction, to be registered as a broad based sub-account.

1 <http://www.iosco.org/library/statements/pdf/statements-6.pdf>

2 <http://www.iosco.org/about/>

Kishore Joshi & Vivek Mimani

You can direct your queries or comments to the authors

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of This is not a Spam mail. You have received this mail because you

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

preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Investment

April 03, 2024

**Cyber Incident Response
Management**

February 28, 2024