

FEMA Hotline

April 30, 2018

INTRODUCTION OF MINIMUM CAPITALIZATION NORMS FOR FINANCIAL SERVICES – IMPLICATIONS ON EXISTING STRUCTURES

We recently conducted a webinar on the 'Introduction of Minimum Capitalization Norms for Financial Services – Implications on Existing Structures'. The webinar focussed on the recent press release by the Ministry of Finance regarding the proposed introduction of minimum capital requirements for foreign direct investment into 'unregulated' financial services activities [attached hereto](#) (the "**Press Release**").

The Press Release is likely to have significant implications particularly on asset managers and investment advisors having foreign investment. The Press Release now imposes dual test of: (i) registration for the entity, and (ii) regulation of the activity undertaken by such entity with a financial services regulator, failing which minimum capitalisation norms of USD 20 million (for fund based activities, such as asset management) and USD 2 million (for non-fund based activities, such as investment advisors rendering exempt advisory services) may trigger.

The Webinar, for instance, analyses one significant implication for asset managers of alternative investment funds ("**AIF**"). Such asset managers were hitherto considered regulated (by virtue of the AIF being regulated); however, now, in light of the Press Release, such asset managers would be considered unregulated entities, and be subjected to USD 20 million minimum capitalisation and regulatory approval. Similar implications may also ensue for investment advisors that have hitherto been rendering activities that are exempted under the relevant regulations.

The Webinar also summarises our interactions with the regulators, wherein we have been given to understand that asset managers of SEBI regulated AIFs should continue to be seen as regulated entities and minimum capitalisation norms should not be triggered. We have sought clarifications from the Ministry of Finance before the Press Release is effected into a law.

In case you were unable to join us live, or you would like to take notes on what was discussed by our industry experts during the event, you can now click on the link to hear the audio recording of the event. If there are any questions, please write to us on [Webinar2018\(at\)nishithdesai.com](mailto:Webinar2018(at)nishithdesai.com)

Click [here](#) for the audio recording.

– **Richie Sancheti, Ruchir Sinha & Pratibha Jain**
You can direct your queries or comments to the authors

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