

## 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 a 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](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

<sup>1</sup> 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/international-taxation/<wbr>/>dtaa.aspx>)

<sup>2</sup> 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>)

<sup>3</sup> 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/international-taxation/<wbr>/>dtaa.aspx>)

<sup>4</sup> 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>)

### 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 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.

This is not a Spam mail. You have received this mail because you 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.

## Research Papers

### Medical Device Industry in India

April 28, 2025

### Clinical Trials and Biomedical Research in India

April 22, 2025

### Structuring Platform Investments in India For Foreign Investors

March 31, 2025

## Research Articles

### 2025 Watchlist: Life Sciences Sector India

April 04, 2025

### Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

## Audio

### CCI's Deal Value Test

February 22, 2025

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

**Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX**

April 01, 2025

**Vaibhav Parikh, Partner, Nishith  
Desai Associate on Tech, M&A, and  
Ease of Doing Business**

March 19, 2025

**SIAC 2025 Rules: Key changes &  
Implications**

February 18, 2025