

SEBI has issued a circular in relation to the schemes of Alternative Investment Funds (“AIFs”) that have adopted the priority in distribution model, and has observed the following:

- The extant AIF legal framework states that the sponsors or manager in the AIF *cannot share loss* of the AIF with its other unit holders, in a manner which is *less than their pro rata holding in the AIF*.
- However, there is *no express provision under the extant legal framework* that *different class of investors or unit holders* of an AIF have to share loss in proportion to their holding in the AIF.
- SEBI noted that there are several schemes of AIF that have adopted a distribution waterfall (“Schemes with Priority Distribution Model”) to attribute more loss to a class of investors (*A*) regardless of their holding in the AIF vis-à-vis the holding of other class of investors (*B*), as *B* has priority in the distribution waterfall of the AIF.
- In light of the above, the Schemes with Priority Distribution Model are not permitted to make any *investment in a new investee company* or *accept any fresh commitment* till SEBI has taken a view in relation to such schemes.

Schemes with Priority Distribution Model by AIFs

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