

**AMENDMENT TO DEFINITION OF QUALIFIED FOREIGN INVESTOR (QFI)
AND QFI INVESTMENT IN DEBT MUTUAL FUND SCHEMES WHICH INVEST
IN INFRASTRUCTURE**

CIRCULAR NO. IMD/FII&C/18/2012, DATED 20-7-2012

1. *Vide* SEBI circulars IMD/DF/14/2011 and IMD/FII&C/3/2012 dated August 09, 2011 and January 13, 2012, respectively, QFIs were allowed to invest in schemes of Indian mutual funds and Indian equity shares subject to terms and conditions mentioned therein. Subsequently, vide SEBI circular IMD/FII&C/13/2012 dated June 07, 2012 the QFI framework has been revised.

Amendment to definition of QFI

2. In consultation with Government of India and Reserve Bank of India it has been decided that the term "person" and the phrase "resident in India" shall carry the same meaning as defined under the Income Tax Act, 1961.

Accordingly, the amended definition for QFI shall read as under:

"QFI shall mean a person who fulfils the following criteria:

- (i) Resident in a country that is a member of Financial Action Task Force (FATF) or a member of a group which is a member of FATF; and
- (ii) Resident in a country that is a signatory to IOSCO's MMOU (Appendix A Signatories) or a signatory of a bilateral MOU with SEBI:

Provided that the person is not resident in a country listed in the public statements issued by FATF from time to time on-(i) jurisdictions having a strategic Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) deficiencies to which counter measures apply, (ii) jurisdictions that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies:

Provided further such person is not resident in India:

Provided further that such person is not registered with SEBI as Foreign Institutional Investor or Sub-account or Foreign Venture Capital Investor.

Explanation. - For the purposes of this clause:

- (1) The term "Person" shall carry the same meaning under section 2(31) of the Income Tax Act, 1961;
- (2) The phrase "resident in India" shall carry the same meaning as in the Income Tax Act, 1961;

- (3) "Resident" in a country, other than India, shall mean resident as per the direct tax laws of that country.
- (4) "Bilateral MoU with SEBI" shall mean a bilateral MoU between SEBI and the overseas regulator that inter alia provides for information sharing arrangements.
- (5) Member of FATF shall not mean an Associate member of FATF.

3. QFI investment in debt mutual fund schemes which invest in infrastructure

3.1 Vide SEBI circulars IMD/DF/14/2011 dated August 09, 2011 QFIs have been allowed to invest in mutual fund debt schemes which invest in infrastructure debt upto a total ceiling of USD 3 billion out of the total long term corporate infrastructure limits of USD 25 billion.

3.2 As a measure of relaxation, RBI vide circular A.P. (DIR Series) Circular No. 135 dated June 25, 2012 has relaxed investment restriction for QFI investment in debt mutual fund schemes which invest in infrastructure.

3.3 Accordingly, QFIs can now invest in those debt mutual fund schemes that hold atleast 25 percent of their assets (either in debt or equity or both) in the infrastructure sector under the USD 3 billion investment limit of debt mutual fund schemes which invest in infrastructure.

3.4 Monitoring and allocation of USD 3 billion limit of QFI investment in debt mutual fund schemes which invest in infrastructure shall be in the following manner-

3.4.1 In partial amendment to SEBI circular IMD/DF/14/2011 dated August 09, 2011 QFI can invest without obtaining approval until the overall QFI investments reaches 90% (ninety percent) of USD 3 billion i.e. USD 2.7 billion.

3.4.2 Terms and conditions related to monitoring, allocation, requirement of obtaining prior approval (after reaching 90% of investment limit) and reporting shall be as prescribed in circular IMD/FII&C/17/2012 dated July 18, 2012.

4. QFIs shall have to comply with provisions of the Foreign Exchange Management Act, 1999 (FEMA).

This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.