

Comparison between non-deposit accepting NBFC – Investment and Credit Company (NBFC-ND-ICC), Core Investment Company (CIC) and an Alternative Investment Fund (AIF)

- Team Finserv, Vinod Kothari Consultants | finserv@vinodkothari.com

Kindly note the following:

- 1) Classification of NBFCs has been revised with effect from October 01, 2022, as per the RBI Scale-Based Regulatory Framework¹
 - a. NBFC-BL - asset size less than Rs. 1000 crores
 - b. NBFC-ML – asset size more than Rs. 1000 crores
- 2) CICs (a) with an asset size of less than ₹100 crore, irrespective of whether accessing public funds or not and (b) with an asset size of ₹100 crore and above and not accessing public funds are not required to register with the RBI- Unregistered CIC
- 3) Further, RBI has merged three categories of NBFCs viz. Asset Finance Companies (AFC), Loan Companies (LCs) and Investment Companies (ICs) into a NBFC - Investment and Credit Company (NBFC-ICC)².

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
Registration	Compulsory registration with RBI	Not required	Compulsory Registration with RBI	Compulsory registration with SEBI as a Category I, Category II or Category III AIF, depending upon the investment avenue and nature of activity to be pursued.	Each category of AIF is subject to different regulations as specified in the SEBI AIF Regulations.
Regulated by	RBI	RBI	RBI	SEBI	--

¹ <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12179&Mode=0>

² <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11483&Mode=0>

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
Applicable Directions	<p>(i) For NBFC-BL- Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015³ (Non-SI Directions, 2015) provided it accepts or holds public funds. Further, additional compliances as per the RBI SBR Framework</p> <p>(ii) For NBFC-ML – Systemically Important Non-Banking financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank)</p>	Unregistered and exempted from the RBI compliances	<p>(1) Core Investment Companies (Reserve Bank) Directions, 2016⁵ ('CIC Directions')</p> <p>(2) Additional compliances as per SBR Framework, as applicable to an NBFC-ML [CICs will always fall under ML or UL]</p>	SEBI (Alternate Investment Funds) Regulations, 2012 ⁶ , as amended from time to time. ('SEBI AIF Regulations')	<ul style="list-style-type: none"> As can be seen, NBFC-ICC and CIC-ND-SIs are subject to multiple regulations framed by the RBI from time to time. However, there is ease of regulations in case of an AIF.

³ <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/MD44NSIND2E910DD1FBBB471D8CB2E6F4F424F8FF.PDF>

⁵ https://www.rbi.org.in/Scripts/BS_ViewMasCirculardetails.aspx?id=9010

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/39MD440D125D51C2451295A5CA7D45EF09B9.PDF>

⁶ <https://www.sebi.gov.in/legal/regulations/jul-2022/securities-and-exchange-board-of-india-alternative-investment-funds-regulations-2012-last-amended-on-july-25-2022-61452.html>

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
	<p>Directions, 2015⁴ ('SI Directions, 2015').</p> <p>Further, additional compliances as per the RBI SBR Framework</p> <p>(iii) Other conduct of business rules (such as KYC, Fair practices code et.), as may be applicable.</p> <p>(iv) Miscellaneous Instructions to all Non-Banking Financial Companies</p> <p>(v) Compliances as per the RBI SBR Framework</p>				
Legal Form	Company	Company	Company	Trust / company / LLP / body corporate ⁷	Flexibility in the choice of a structure for an AIF. Usually, AIFs are set up in the form of a trust to avail tax benefits (pass-through status)

⁴ <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/45MD01092016B52D6E12D49F411DB63F67F2344A4E09.PDF>

⁷ Provisions of the Companies Act, 1956 / 2013 shall apply to the AIF if it is formed as a company.

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
Eligibility Criteria	<ul style="list-style-type: none"> Company engaged in the business of acquisition of shares, stock, bonds, debentures or securities issued by Government or local authority or other marketable securities of a like nature and also fulfills principal business test i.e. at least 50% of its total income and total assets should be financial income and financial assets, respectively. Further, in the case of NBFC-ICC, such financial income and financial asset should be in the form of investments. 	<p>(i) 90% of the net assets of the company has to be in the form of investment in equity shares, preference shares, bonds, debentures, debt or loans in “group companies”⁸;</p> <p>(ii) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies and units of Infrastructure Investment Trusts (InvITs) only as sponsor constitutes not less than 60% of its net assets as</p>	<p>(i) 90% of the net assets of the company has to be in the form of investment in equity shares, preference shares, bonds, debentures, debt or loans in “group companies”;</p> <p>(ii) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies and units of Infrastructure Investment Trusts (InvITs) only as</p>	<p>For the purpose of the grant of certificate to an applicant, SEBI shall consider the following conditions for eligibility, namely, —</p> <p>(a) the MOA/ Trust Deed/ Partnership deed (as may be applicable) permits to carry on the activity of an AIF;</p> <p>(b) the applicant is prohibited by charter documents from making an invitation to the public to subscribe to its securities;</p> <p>(c) in case the applicant is a Trust, the trust deed and has been duly registered under the Registration Act, 1908;</p> <p>(d) in case the applicant is an LLP, the partnership is duly incorporated and the</p>	<ul style="list-style-type: none"> An NBFC-ICC may either be classified as an NBFC-BL or NBFC-ML depending on its asset size. The compliance requirements will be based on such classification with the latter being comparatively more strictly regulated. In case of CICs, almost the entire investments shall be made in group entities. CICs may either be formed as registered or unregistered CICs. CIC Directions are not applicable to Unregistered CICs. However, the asset size should either be below Rs. 100 crores or in case the asset size is above Rs. 100 crores,

⁸ Group Company - Companies in the Group” means an arrangement involving two or more entities related to each other through any of the following relationships, viz. Subsidiary – parent (defined in terms of AS 21), Joint venture (defined in terms of AS 27), Associate (defined in terms of AS 23), Promoter-promotee [as provided in the SEBI (Acquisition of Shares and Takeover) Regulations, 1997] for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above).

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
		<p>mentioned in clause (i) above; (Provided that the exposure of such CICs towards InvITs shall be limited to their holdings as sponsors and shall not, at any point in time, exceed the minimum holding of units and tenor prescribed in this regard by SEBI InvITs Regulations)</p> <p>(iii) it does not trade in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;</p> <p>(iv) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the RBI Act, 1934 except investment in</p>	<p>sponsor constitutes not less than 60% of its net assets as mentioned in clause (i) above; (Provided that the exposure of such CICs towards InvITs shall be limited to their holdings as sponsors and shall not, at any point in time, exceed the minimum holding of units and tenor prescribed in this regard by SEBI InvITs Regulations)</p> <p>(iii) it does not trade in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;</p>	<p>partnership deed has been duly filed under the LLP Act, 2008;</p> <p>(e) in case the applicant is a body corporate, it is set up or established under the laws of the Central or State Legislature and is permitted to carry on the activities of an Alternative Investment Fund;</p> <p>(f) the applicant, Sponsor and Manager are fit and proper persons based on the criteria specified in SEBI Intermediaries Regulations, 2008.</p> <p>(g) Key investment team of the Manager has the relevant experience as prescribed.</p> <p>(h) the Manager/ Sponsor has the necessary infrastructure and manpower to effectively discharge its activities;</p>	<p>there should not be any public funds involved.</p> <ul style="list-style-type: none"> The structure of an AIF is in the form of a pooled investment vehicle that collects money from investors for various schemes floated by it, in return of 'units' of the schemes. These investments are collected by way of private placement only. Such pooled investments are then invested as per the purpose of the scheme, as reflected in the placement memorandum issued to the investors at the time of floating the scheme.

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
		<p>bank deposits, money market instruments, government securities, bonds or debentures issued by group companies, loans to and investments in debt issuances of group companies or guarantees issued on behalf of group companies;</p>	<p>(iv) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the RBI Act, 1934 except investment in bank deposits, money market instruments, government securities, bonds or debentures issued by group companies, loans to and investments in debt issuances of group companies or guarantees issued on behalf of group companies.</p>	<p>(i) the applicant has clearly described at the time of registration the investment objective, the targeted investors, proposed corpus, investment style or strategy and proposed tenure of the fund or scheme;</p> <p>(j) whether the applicant or any entity established by the Sponsor or Manager has earlier been refused registration by the Board</p>	

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
Minimum net owned fund requirement	Minimum NOF of Rs. 10crore mandatory for all new NBFCs. NOF requirements to be increased for existing NBFCs as per below timeline: <ul style="list-style-type: none"> ● By Mar 1, 2025 - Rs. 5 cr ● By Mar 31, 2027 - Rs. 10 cr 	No minimum NOF	Adjusted net worth ⁹ shall not, at any time, be less than 30% of the aggregate risk-weighted on and off-balance sheet assets.	<ul style="list-style-type: none"> ● Each scheme of the AIF shall have a corpus of at least Rs. 20 crores. ● Minimum investment from each investor should not be less than Rs. 1 crore. 	--
Lock-in investments by promoter/ sponsor	No such lock-in investment prescribed	No such lock-in investment prescribed	No such lock-in investment prescribed	<ul style="list-style-type: none"> ● Manager or sponsor to have a continuing interest of not less than 2.5% of the corpus or Rs. 5 crores, whichever is lower. ● For Category III AIF, such continuing interest shall not be less than 5% of the corpus or Rs. 10 crores, whichever is lower. 	--
Tenure	NA	NA	NA	<ul style="list-style-type: none"> ● For Category I and II - The AIF or schemes launched by them shall have a minimum tenure of 3 years and shall be close ended ● Category III AIF may be open-ended or close-ended. 	--

⁹ As defined under para 3(1) (i) of the CIC Directions

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
				<ul style="list-style-type: none"> Extension of the tenure of the close-ended AIF up to two years may be done with the approval of two-thirds of the unit holders by value of their investment. 	
Leverage ratio	<ul style="list-style-type: none"> For NBFC-BL – As per NBFC-NSI Directions, maximum leverage ratio of 7, at any point of time. <i>For the purpose of these directions leverage ratio means: the total Outside Liabilities/ Owned Funds.</i> For NBFC-ML – No leverage limit. 	No leverage limit	Outside liabilities to not exceed, at any time, 2.5 times of adjusted net worth.	<ul style="list-style-type: none"> Category I and II AIFs are not permitted to undertake leverage or borrowing other than to meet day-to-day operational requirements for not more than 30 days, on not more than 4 occasions in a year; and not more than 10% of the investable funds. Category III AIFs are permitted to employ leverage or borrow subject to investor consent which shall not exceed 2 times of the NAV of the AIF at all times¹⁰. 	Additional compliance requirement for NBFC-ICs and CICs.

¹⁰ As per SEBI Circular dated July 29, 2013 - https://www.sebi.gov.in/legal/circulars/jul-2013/circular-for-operational-prudential-and-reporting-requirements-for-alternative-investment-funds_25105.html

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
Concentration norms	<p>Not applicable to an NBFC-BL. However, it is applicable to an NBFC-ML. An NBFC-ML shall not have any lending and/or investment exposure towards:</p> <p>(a) any single borrower / party exceeding 25% of its Tier I Capital; and</p> <p>(b) any single group of borrowers/parties exceeding 40% of its Tier I Capital;</p>	<p>(i) 90% of the net assets of the company has to be in the form of investment in equity shares, preference shares, bonds, debentures, debt or loans in “group companies”.</p> <p>(ii) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies constitutes not less than 60% of its net assets as mentioned in clause (i) above;</p>	<p>(i) 90% of the net assets of the company has to be in the form of investment in equity shares, preference shares, bonds, debentures, debt or loans in “group companies”.</p> <p>(ii) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies constitutes not less than 60% of its net assets as mentioned in clause (i) above;</p>	<ul style="list-style-type: none"> ● Category I and II AIF shall invest not more than 25% of its corpus (<i>corpus – estimated administrative expenditure</i>) in one Investee Company; ● Category III AIF shall invest not more than 10% of its corpus in one Investee Company. ● AIF cannot invest in associates except with the approval of 75% of investors. ● Un-invested portion of the corpus may be invested in liquid mutual funds or bank deposits or other liquid assets of higher quality such as Treasury bills, CBLOs, Commercial Papers, Certificates of Deposits, etc. till deployment of funds as per the investment objective. 	<ul style="list-style-type: none"> ● No concentration limit for NBFC-ND-IC having asset size less than 500 crores, however for NBFC-ND-IC-SI Credit concentration norms for NBFCs have been classified into 2 categories: <ul style="list-style-type: none"> ○ Single company; and ○ Single group of companies. ● Different concentration norms have been prescribed for investment into these two categories. ● However, no group investment limit has been prescribed for AIFs. Only a single concentration limit for investment into an investee company has been prescribed at 25% and 10% depending on the category of AIF. ● Moreover, in case of CICs, 90% of its investments have to be in group companies.

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
Valuation of investments made	No such valuation required unless covered under IndAS.	No such valuation is required unless covered under IndAS.	No such valuation is required unless covered under IndAS.	<ul style="list-style-type: none"> Category I and II AIF are required to undertake valuation of their investments, atleast once in every 6 months, by an independent valuer appointed by the AIF. Category III AIF should ensure that the calculation of the NAV is independent of the fund management function of the AIF and such NAV shall be disclosed to the investors at intervals not longer than a quarter for close-ended Funds and at intervals not longer than a month, for open-ended funds. 	Additional compliance burden on AIFs
Capital adequacy norms	Not applicable to NBFC-BL. However, for NBFC-ML, minimum capital ratio consisting of Tier I and Tier II capital shall not be less than 15% of aggregate risk weighted assets on balance sheet and of risk adjusted value of off-balance sheet items.	No such requirement	Adjusted Net Worth should not be less than 30% of its aggregate risk-weighted assets on balance sheet and risk adjusted value of off-balance sheet items.	No such requirement	AIFs and NBFC-BL are not subject to capital adequacy ratio, as applicable to NBFC-ML and Registered CIC.

Parameters	NBFC-ND- Investment and Credit Company (ICC)	Unregistered CIC	Registered CIC	Alternative Investment Fund	Remarks
Subsidiarisation	Since NBFC-ICC is essentially a company, investments made into more than 50% of the equity shares/convertible preference shares of another company would make the investee company a subsidiary of the NBFC-ICC.	Same as in case of NBFC-ICC	Same as in case of NBFC-ICC	<ul style="list-style-type: none"> ● In case of an AIF, there is no question of having a subsidiary since the structure is similar to mutual funds wherein the pooled investments from various investors are invested into these companies in lieu of units of the scheme. The unit holders have beneficial interest in these units and the benefits derived from the investments are passed on to the investors. ● Thus, the AIF does not become the holding company of these investee companies in case the investment exceeds 50% of the equity capital/ convertible preference share capital of the investee companies. 	
Eligibility to raise ECBs	Eligible	Eligible	Eligible	<ul style="list-style-type: none"> ● Category I and II cannot borrow. ● Category III are eligible. 	
Foreign Direct Investment	100% FDI under automatic route	100% FDI under automatic route	100% FDI under automatic route	<ul style="list-style-type: none"> ● As per schedule VIII of FEMA NDI Rules, 2019 	