

# Primer

## A Primer on 'Core Investment Companies (CICs)'

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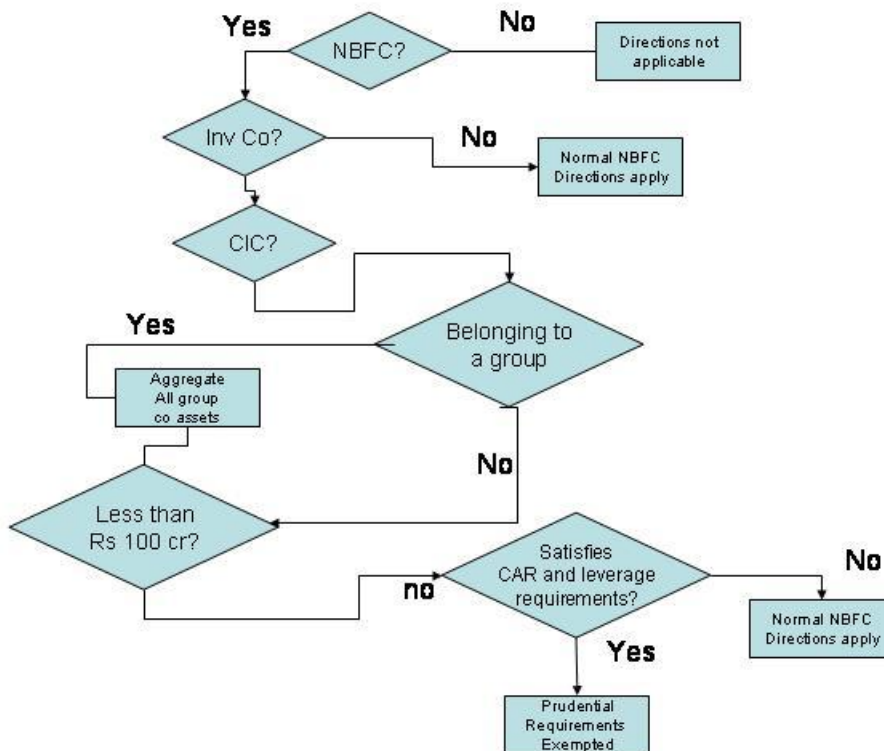


## Primer

### 1. Why CIC category has been notified?

CICs are merely passive holding companies, meant for maintaining control over group companies. As the major part assets of such companies are in investments, they come within the ambit of NBFC Regulations. However, as these companies are formed primarily for investing in the group, CIC Directions have been notified to give exemptions and relaxations to such group holding companies.

Following chart shows an overview of CICs:



### 2. What is a CIC as per CIC Directions?

An NBFC company fulfilling the following conditions is a CIC:

- a. 90% of its net assets are invested in securities or loans/debts in group companies



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- b. 60% of its net assets are in form of equity investment (including convertible instruments convertible within a period of 10 years) in group companies
- c. The company is not trading in its investments except through block sale for the purpose of dilution or disinvestment
- d. The company is not carrying on any other financial activities as mentioned in section 45I of RBI Act except activities of investment, granting loans and issuing guarantees for its group companies

### 3. When a CIC needs registration?

When a CIC becomes a systematically important CIC (CIC-SI), it needs registration with the RBI as a CIC-SI.

### 4. What are the benefits available to a CIC?

A CIC is an NBFC investing in group companies and is exempted from registration requirements of RBI. As CICs are not required to be registered, no regulatory norms have been prescribed. CICs will be governed by provisions of Companies Act, 1956 only.

### 5. What is a CIC-SI?

A CIC will be CIC-SI if it:

- a. Has total assets of not less than Rs.100 crores, either individually or in aggregate ***along with other Core Investment Companies in the Group; AND***
- b. Is raising or holds public funds

### 6. What are the regulatory provisions for a CIC-SI?

A CIC-SI is required to have a registration certificate with the RBI and is required to:

- a. Have an adjusted networth of at least 30% of its aggregate risk weighted assets on balance sheet and risk adjusted value of off-balance sheet items as on the date of the last audited balance sheet as at the end of the financial year;
- b. Maintain a leverage ratio of 2.5;



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- c. Submit an annual certificate from its statutory auditors regarding compliance with the requirements of CIC directions within a period of one month from the date of finalization of the balance-sheet.

Further, the FAQs on CIC by RBI also suggest that CIC-ND-SI are exempt from norms regarding submission of statutory auditor certificate regarding continuance of business as NBFC, capital adequacy and concentration of credit / investments norms as per the NBFC (Non-Deposit holding) Prudential Norms Directions, 2007. All other requirements of the stated Directions shall apply.

### **7. What is the time limit for registration of CIC-SI?**

A CIC-SI is required to apply for registration within a period of three months from the date of becoming a CIC-SI.

### **8. When should a company make the application for registration if it is qualifying as a CIC-SI as per the last audited balance sheet?**

If the balance sheet is made on 31st March, 3 months' time limit for making registration application should be counted from 31st march. However, if the balance sheet is not even available within 3 months, in that case, for obvious reasons, the company has no means of information that its asset base has exceeded. So application is to be made within 3 months from the reporting date, or the date of availability of the audited balance sheet (that is, board confirmation), whichever is later.

### **9. What all companies will be covered by "Group Companies"?**

Companies covered by any of the following relationship will be regarded as 'Group Companies':

- a. Subsidiary – parent (defined in terms of AS 21)
- b. Joint venture (defined in terms of AS 27)
- c. Associate (defined in terms of AS 23)
- d. Promoter-promotee (as provided in the SEBI Takeover Regulations) for listed companies
- e. a related party (defined in terms of AS 18)
- f. Using common brand name, and
- g. Companies in which investment in equity shares is 20% and above



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In this connection, the FAQ of RBI on CIC as updated on March 8, 2013, says that this definition is “exhaustive”. However, the spirit of the definition is to have a wide view such that the definition encompasses all companies which can be considered within the same group. Going strictly by the definition would not meet this purpose at all. In fact, even AS-18 does not allow one to take a constricted view of the phrase “significant influence”. Thus, “substance over form” should be kept in mind while interpreting the applicability of this definition to any case.

### **10. What is meant by ‘public funds’?**

Public Funds includes funds raised either directly or indirectly through public deposits, Commercial Papers, debentures, inter-corporate deposits and bank finance but excludes funds raised by issue of instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue.

### **11. How public funds are different from public deposits?**

Public Funds for CIC Directions have wider meaning and includes public deposits within its ambit. However, it is to be noted that CICs-SI are not permitted to raise deposits.

### **12. What if a company is having total assets of more than Rs 100 crores but not raising public funds?**

To qualify as a CIC-SI, CICs need to fulfil the twin condition of asset size and public funds as mentioned in answer to question 5 of this primer. So CICs having assets of more than 100 crores but are not raising public funds will not be regarded as CIC-SIs.

### **13. If there are 4 companies (say A, B, C and D) in a group fulfilling the criteria of a CIC, of which company should the group get registration as CIC-SI if total group assets are 100 crores or more?**

If all the four companies are fulfilling CIC criteria and total assets of such companies exceeds 100 crores, the company which is holding or is raising public funds will be a CIC-SI and will require registration. If all companies are raising public funds, all of them will require registration.



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**14. Whether entities other than companies are also covered by the CIC Directions?**

No, only companies are covered by the CIC Directions.

**15. Are existing registered NBFCs qualifying as CICs required to continue with the registration?**

No, the registration certificate of existing NBFCs can be surrendered.

**16. Whether investment in step down subsidiaries will be regarded as investment in 'group companies'?**

If step down subsidiary is not covered by the definition of 'group companies', hence, investments in step down subsidiaries will not be reckoned for the purpose of counting eligible investments for CIC criteria. In exceptional cases, where step down subsidiary is falling within the definition of 'group companies'; investments in such company will be taken into consideration for CIC purpose.

**17. In case an existing NBFC-ND-SI is converted into a CIC-SI after fulfilling the stipulated criteria, will the existing COR continue or will a fresh application need to be made?**

As there would be a separate application form for CICs-SI, they would have to apply afresh.

**18. Whether investments in a group entity other than a Company, say partnership firms, LLPs, Trusts, Association of Persons, etc by CICs-SI could be regarded as investments in Group Companies for the purpose of calculating 90% investment in Group Companies?**

No, only investments in companies registered under Section 3 of the Companies Act 1956 would be regarded as investments in Group companies for the purpose of calculating 90% investment in Group companies. However, CICs/CICs ND SI can deploy balance 10% of their net assets in group entities other than a company.

**19. Are CIC-SIs exempt from the NBFC (Non Deposit holding) Prudential Norms Directions 2007?**

No, CIC-SIs are only exempted from norms regarding submission of Statutory Auditor Certificate regarding continuance of business as NBFC, capital adequacy and concentration of credit / investments in group companies norms as they have been

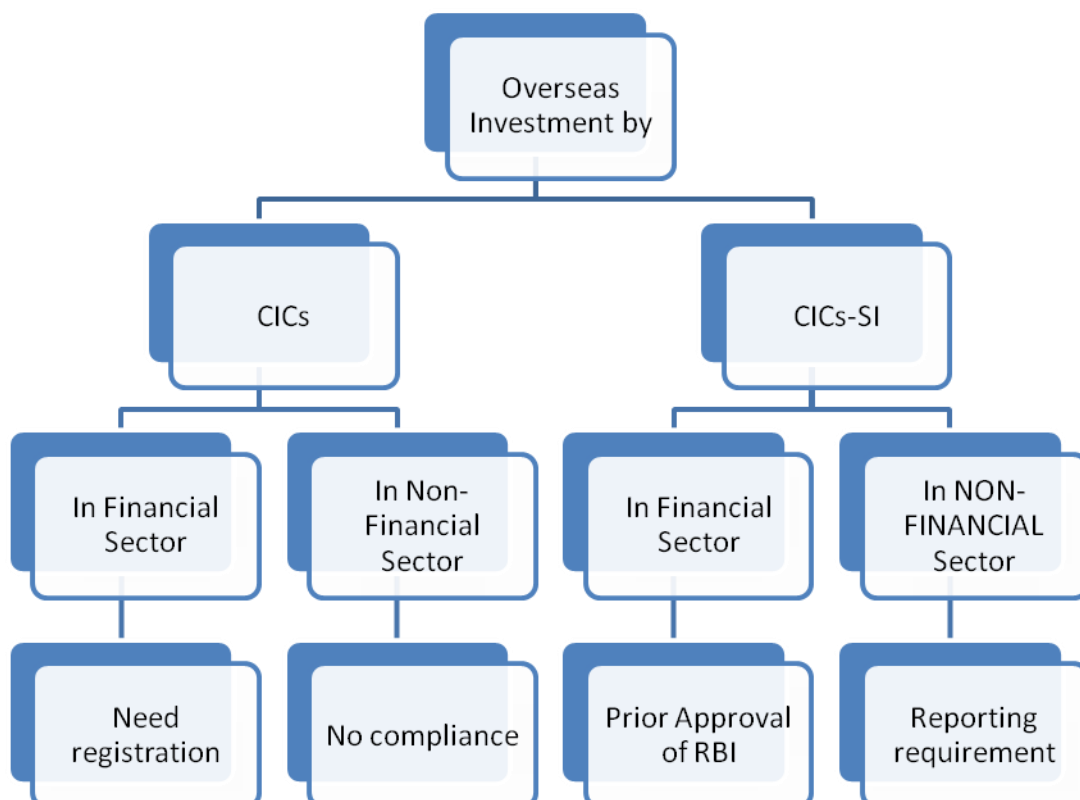


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separately dealt in the CIC Directions. All other compliances under the NBFC Prudential Norms are to be met with.

### 20. Can CICs invest abroad?

Yes, a CIC can invest up to 400% of its networth abroad in compliance with CIC ODI Directions notified on December 6, 2012. Following diagram gives an overview of ODI by CICs:



### 21. A company has investments in group companies but does not meet the criteria of principal business as defined in terms of asset-income criteria to be as an NBFC. Can the company still be regarded as a CIC or NBFC?

Although the figures reported in the balance sheet reflects the business activity of the company, but the same cannot be the sole criteria to determine the character of a company. Principality of business is to be determined by examining the nature of the business of an entity, its principal thrust areas, schematic and consistent distribution of assets, resources and activities. Therefore, even if a company is not meeting income-asset criteria in a particular year, it shall be regarded as NBFC/CIC based on its principal business.



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### **22. Whether CICs that are exempt from registration are required to register as NBFCs?**

CICs that (a) have an asset size of less than Rs.100 crores irrespective of whether they are accessing public funds or not and (b) have an asset size of Rs. 100 crores and above and are not accessing public funds have been exempt from registration with the Bank under Section 45IA of the RBI Act, 1934 in terms of notification No. DNBS.PD.221/CGM(US) 2011 dated January 5, 2011.

### **23. Is foreign direct investment allowed in CICs?**

FDI in CICs will require prior Government/FIPB approval, regardless of the amount or extent of foreign investment.

### **24. Even if 50% of total income of a CIC is not from the financial assets (being one of the income-asset criteria for NBFCs), can it still be a CIC?**

As explained in answer to question 21 of this Primer, principality of business should be determined based on the nature of business of a company. If there is a conflict between asset criteria and income criteria, the asset criteria must surely prevail. The reason for this is obvious – assets are by and large static, whereas income is the result of operations during a year. The results may, and more often than not, fluctuate from year to year, purely due to extraneous factors.

### **25. FAQ on CICs state that the “principal business” criteria need not be met by CICs. However, the CIC Directions indicate that every CIC should be an NBFC first. Are these not contradictory?**

The CIC Guidelines are the primary guidelines which we shall refer to. FAQs are indicative in nature and do not have any legality. We go strictly by the CIC guidelines and suggest that every CIC should meet the “principal business” criteria. Merely because CIC need not obtain a certificate of registration from RBI, does not give it the right to not adhere to laid down requirements, irrespective of what the FAQs suggest.

### **26. Can CIC enter into the insurance business?<sup>1</sup>**

Any CIC registered with RBI which satisfies the eligibility criteria will be permitted to set up a joint venture for undertaking insurance business with risk participation.

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<sup>1</sup> [http://www.rbi.org.in/scripts/BS\\_CircularIndexDisplay.aspx?Id=7918#ANN](http://www.rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=7918#ANN)





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The maximum equity contribution in such joint venture by CIC will be as per IRDA approval.

### **27. What are the eligibility criteria for setting up such joint venture company undertaking insurance business?**

The eligibility criteria for such joint venture participant shall be as per last audited balance sheet:

- (1) The owned funds of the CIC shall not be less than Rs. 500 crore
- (2) The level of net non-performing asset shall not be more than 1% of total advances
- (3) The CIC shall have registered net profit continuously for three consecutive years
- (4) The track record of the performance of subsidiaries of the concerned CIC should be satisfactory
- (5) CIC shall comply with all applicable regulations including the CIC Directions, 2011. CICs-ND-SI are required to maintain adjusted net worth which shall be not less than 30% of aggregate risk weighted assets on balance sheet and risk adjusted value of off-balance sheet items.

### **28. Whether NBFCs can enter into insurance business?**

The Circular dated April 1, 2013 places restriction on NBFCs on entering into insurance business. Although, the stated circular says that *normally* NBFCs (whether within/outside the group) would not be allowed to join an insurance company on risk participation basis and hence should not provide any financial support to the insurance venture.

### **29. Whether CIC can enter into insurance business as agents?**

No, CIC cannot enter into insurance business as agents.

### **30. Whether CIC can participate as investors in insurance business?**

CICs wishing to participate as investor in insurance business have to get prior approval of RBI. It is to be ensured that the risk involved in insurance business is not transferred to CIC.

### **31. Whether CIC can invest in insurance companies within the group companies?**



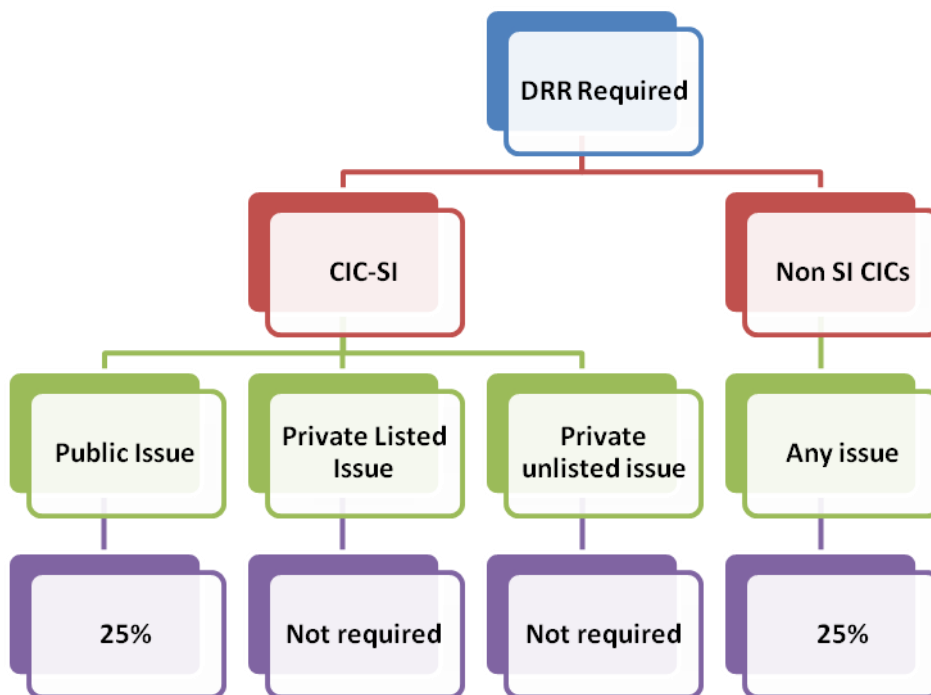
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Yes, CIC within the group may be permitted to invest upto 100% of the equity of the insurance company either on a solo basis or in joint venture with other non-financial entities in the group.

### 32. Can more than one CIC be permitted to participate in the equity of the Insurance joint venture?

Yes, where a foreign partner contributes 26 % of equity with the approval of IRDA in such case more than one CIC may be allowed to participate in the equity insurance joint venture, subject to the criteria laid down.

### 33. What is the Debenture Redemption Reserve requirement for CIC?<sup>2</sup>



See our other write ups on CICs at: <http://india-financing.com/core-investment-companies.html>

All other write-ups on NBFCs and corporate laws at: [www.india-financing.com](http://www.india-financing.com)

<sup>2</sup> [http://www.mca.gov.in/Ministry/pdf/General\\_Circular\\_04\\_2013.pdf](http://www.mca.gov.in/Ministry/pdf/General_Circular_04_2013.pdf)