Private Equity Investments In India – Regulatory Overview
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Private Equity Investments refer to those investments made by private equity companies, Venture Capital firms, or Angel Investors who possess a specific objective of achieving a profitable return by employing a specific strategy. These investments tend to kindle growth in the nascent stage of businesses and also assist them in meeting up with their working capital requirements.
Venture Capital Companies provide capital to early-age startups which in their opinion shall turn out to be profitable in the future. They assume this risk with the expectation that the firm will be successful and provide a return via an eventual initial public offering ("IPO") or strategic sale (merger & acquisition). Due to the considerable risk associated with such investments, venture capital investments often fail.
Angel Investors are those individuals who possess a high net worth and perform the same tasks as that of a venture capital firm. The difference lies in the fact that angel investors employ their personal funds rather than the pooled money as in the case of venture capital firms. Private Equity Investments in India have grown substantially throughout the years. This growth illustrates the superiority of equities investments over other conventional investment options.
Thus, it is evident that as economic growth has undergone a boom, private equity investments in India have become a popular and preferred way of investment which in turn facilitates growth and prosperity in the Indian economy. With its rise, it has become imperative that private equity investment regulations are incorporated into the legislative framework which shall keep a check as well as keep suchprivate equity investments in India under regulatory watch.

Private Equity Investment Regulations And Laws In India

Sebi (Alternative Investment Funds) Regulation

The equity law in India has undoubtedly undergone an overhaul due to the rise in private investments in the economy. The equity law in India intends to provide a mechanism by which investment procedures can be regulated and monitored.

According to the SEBI (Alternative Investment Funds) Regulations, 2012, with the recent fourth amendment on Nov 15th 2022, a private equity fund is defined as an Alternative Investment Fund that invests primarily in equity or equity-linked instruments or partnership interests of investee companies in accordance with the stated objective of the fund.

Typically, these funds have two participants: general partners and limited partners. A private equity company is the general partner, has management and financial authority, and is responsible for the limited partnership's daily operations.

The limited partners are institutional investors such as pension funds, insurance companies, endowments, and fund of funds, or wealthy people, sovereign wealth funds, hedge funds, and banks. Their responsibility is restricted to delivering the fund's money, which is subsequently handled by the private equity company.

International Investors in AIFs

The Reserve Bank of India (RBI) has permitted investment vehicles to receive investments from non-resident Indian investors and foreign investors through the automatic route, so long as control of the investment vehicles vests in sponsors and managers, or investment managers, that are considered Indian-owned.

Off-shore Funds

Offshore funds (i.e., investment funds organized outside India) are governed by SEBI's relevant laws and the Reserve Bank of India's exchange control regulations, particularly the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 (FEMA Tispro)

The following investment routes are available to offshore funds that participate in private equity:

Foreign Direct Investment

FDI vehicles are often used by international investors to route their investments in private equity. These investments are governed by the Foreign Direct Investment (Consolidated Policy) that is released annually, as well as the Foreign Exchange Management (Non-Debt Instruments) Rules 2019 (the Non-Debt Rules), and FEMA Tispro.

Although foreign direct investment (FDI) of up to one hundred percent is permitted in the majority of businesses in India under the "automatic route" there are a few exceptions, such as the insurance industry, atomic energy generation, cigars, cigarettes, or any related tobacco industry, lotteries, etc., in which FDI is either prohibited or subject to a limit.

Foreign Venture Capital Investor

Foreign investors are required to register with SEBI under the SEBI (Foreign Venture Capital Investors) Regulations 2000 to invest in VC enterprises (the FVCI Regulations). In order to encourage job creation and innovation, the RBI permitted 100 percent FVCI investment in new businesses.

Sector Specific Funding
SEBI has published the Securities and Exchange Board of India Real Estate Investment Trusts Regulations 2014 (the REIT Regulations) to regulate investments in the real estate market. Additionally, SEBI has published the SEBI Infrastructure Investment Trusts Regulations 2014 (the Infrastructure Regulations) in order to regulate investments in the infrastructure market. Both of these sets of regulations are intended to ensure that investors are protected. To legally do business, infrastructure investment trusts (InvITs) and real estate investment trusts (REITs) are required to register with SEBI.
Real Estate Investment Trust.
A real estate investment trust, or REIT, is a trust that has been established in accordance with the Indian Trust Act 1882 (the Trust Act) and registered under the Registration Act 1908. The primary objective of a REIT is to participate in real estate investment activities in a manner that is compliant with the REIT Regulations. The real estate investment trust (REIT) is established by the trust's sponsor. The trust's trustee has overall authority over the REIT and guarantees compliance with all applicable requirements.
The REIT's management is responsible for making investment decisions. They are only allowed to invest in special-purpose vehicles, mortgage-backed securities, real estate, and the transfer of development rights in India.
Conclusion
As the Indian economy continues to expand, financial needs for core and essential industries will continue to increase; thus, structural changes to construct a bridge between capital providers and capital seekers are a positive move in the right direction. Consequently, any restrictions controlling private equity in India will be crucial to the nation's economic success.
As a consequence of India's economic potential and government efforts, a favorable regulatory environment, improvement in ease of doing business, and stimulation of new investment channels, investments in form of private equity in Indiaaccounts for US$77.1 Billion in 2021, a 62% rise as opposed to 2020 Accordingly, SEBI endeavors to fulfil its pledge to assist the expansion of the AIF business. In recent years, SEBI has vigorously promoted the legal and economic viability of REITs in India. It has led the process of streamlining the relevant regulatory framework, and as a result, several adjustments to rules across multiple regulators have been made possible.
These changes have undoubtedly led to India being an attractive investment location.
FAQs
What differentiates private investment from private equity?
Private equity businesses are often confined to pension funds, big endowments, and very rich people, as opposed to private investment corporations, which have a relatively low barrier to entry. Smaller investment clubs may invest in shares of a firm, but not the whole business.
Who in India oversees private equity?
Under the AIF Regulations, domestic private equity firms must be established as AIFs and registered with the SEBI. Before the AIF Regulations, private equity firms were required to register under the SEBI (Venture Capital Funds) Regulations 1996. (VCF Regulations).

Is private equity subject to SEBI regulation?
There are three categories of AIF: Category I, Category II, and Category III. Consequently, a fund must adhere to the particular set of restrictions and regulations established by SEBI.

- https://www.sebi.gov.in/sebi_data/attachdocs/1471519155273.pdf
- https://rbi.org.in/scripts/BS_ViewMasCirculardetails.aspx?id=7355
- https://www.sebi.gov.in/legal/regulations/sep-2000/sebi-foreign-venture-capital-investors-regulations-2000-last-amended-on-march-6-2017-_34636.html
- https://www.sebi.gov.in/legal/regulations/dec-2017/sebi-real-estate-investment-trusts-regulations-2014-last-amended-on-december-15-2017-_38449.html
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