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The Insolvency and Bankruptcy Code (Amendment) Act, 2026

- Vibha Vaikuntanath

Introduction

The Insolvency and Bankruptcy Code (Amendment) Bill ("**the Amendment**"), which was tabled in 2025, was passed by the Lok Sabha and subsequently received presidential assent in April 2026. Upon discussion and deliberation with regards to issues with the implementation of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") it was decided that an amendment to the Code would be best to enhance effectiveness of the IBC. The Insolvency and Bankruptcy Code (Amendment) Act ("**the Act**") introduces many new concepts and makes alterations to the already existing provisions with the view of increasing efficiency.

Background and challenges faced with the earlier setup

The Amendment was proposed to deal with certain difficulties that persisted in the existing framework. The 2022 judgement in *Vidarbha Industries Power Limited v. Axis Bank Limited* ("**Vidarbha**") dealt with Section 7(5)(a) of the Code. The bench held that the provision allows the National Company Law Tribunal ("**NCLT**") to reject an Application even if debt and default are established, bringing about certain ambiguities in the NCLT and National Company Law Appellate Tribunal ("**NCLAT**") decisions post the judgement. The judicial precedents dealing with the withdrawal of the Corporate Insolvency Resolution Process ("CIRP") were also inconsistent, hence causing confusion. Further, the timelines for NCLT and NCLAT to pass orders were not strict, contributing to delays in the resolution process. The need for codification was realised when the Mumbai bench of NCLT in *State Bank of India v Videocon Industries Limited* ("**Videocon**") provided a framework for group insolvency. Apart from changes to the existing structure, the Act also introduces new provisions to increase the efficacy of the Code.

Provisions in the spotlight

The Act focuses majorly on reducing delays due to cumbersome procedures which lead to reduction in asset value over time, strengthening rights of the creditors, and improving transparency. Excessive delays coupled with a lack of accountability brought about an increase in the timeline of the resolution process.

To address the same, the Act mandates the NCLT to either admit or reject the application within 14 days under section 7, or in case of not passing orders within the stipulated time, record the reasons. The discretionary powers of rejection have been limited, and the NCLT cannot reject an application if it is satisfied that default has occurred. This serves to clarify the aftermath of Vidarbha, and reduces the extent of judicial intervention at the stage of admission. Strict timelines for the Tribunal have been established via the Act. Within 30 days of receipt of the resolution plan, the NCLT is required to pass an order, failing which reasons have to be recorded for such delay. A liquidation order must also be passed within 30 days, and appeals must be disposed of by the NCLAT within 3 months - arguably an ambitious reform.

The case of *Swiss Ribbons v. Union of India* provided that prior to the constitution of the Committee of Creditors (CoC), a party may apply to the Tribunal for withdrawal of application, and the Tribunal may allow such application under Rule 11 of the NCLT Rules, 2016. Future cases created more confusion, which the Act clarified by amending section 12A. Now, withdrawal of an application may be permitted only if 90% of the CoC consent to the same. Withdrawal is not permitted if invitation for submission of a resolution plan has been issued. This markedly reduces the withdrawal window.

During CIRP, investors may require more time, and valuation disputes may arise. To tackle this issue, a provision for restoration of CIRP, to the stage of invitation for submission of resolution plans, has been included via amendment to section 33. A maximum cap of 120 days for completion of such a restored process has also been added. For this, the CoC has to apply for the same with a 66% consensus, prior to the issuance of a liquidation order.

A new chapter IV-A has been added pertaining to the Creditor Initiated Insolvency Resolution Process (CIIRP). Under this mechanism, a financial creditor may initiate a CIIRP for corporate debtors which fall within certain categories to be notified by the Central Government. Simple majority approval of financial creditors is required for the appointment of a resolution professional. A public announcement is to be made by the resolution professional, and the Insolvency and Bankruptcy Board of India (IBBI) and NCLT are to be notified. An outer time limit of 150 days has been provided, with an optional extension by 45 days subject to approval by the CoC. Resolution plans are to be invited, post which

66% approval of the CoC is required, along with NCLT approval of the same. Provision has also been made for the debtor to challenge the CIIRP; or to convert it into a CIRP.

This process allows for early intervention, allowing for preservation of value of the debtor. Burden on the Tribunal also reduces. Preservation of the business as a going concern, which is the IBC's foundational principle, is realised via the CIIRP. However, practical ambiguity exists, as concerns regarding increase in litigation due to the debtor's exclusion, limited creditor control due to a debtor-in-possession model, and delays in plan approval still persist.

The difficulties faced in *Videocon*'s complicated CIRP journey led to the need for a codified group insolvency mechanism. The Act provides for such a regime - which may consist of a common bench for all debtors increasing coordination, a common insolvency professional and a CoC. The finer details have been left to the Rules which are to be notified by the Centre.

Conclusion

The Act is a definitive attempt to improve various facets of the insolvency process in India, and a conscious effort to clarify various judicial pronouncements. Different impediments have been addressed via the much needed amendment - the procedural delays, judicial interference, failure of a CIRP, among others. The true test will, however, lie in the implementation of the Act, and whether confidence in India's insolvency regime can be maintained without prejudicing the interests of minority stakeholders.

Recalibrating India's Land Border Investment Regime

-Sidharat Som Mohanty

Introduction

In March 2026, the Department for Promotion of Industry and Internal Trade revised India's foreign investment policy for countries that share a land border with India, ending nearly six years of an almost blanket government approval requirement for such investment. The change, introduced through Press Note 2 (2026 Series), amends paragraph 3.1.1 of the Consolidated FDI Policy and is the first substantive recalibration of the framework set out in Press Note 3 (2020 Series).

About the Press Notes

Press Note 3, issued in April 2020, required prior government approval for any investment by an entity or citizen of a land border country, or by any investor whose beneficial owner sat in such a jurisdiction. It was framed as a pandemic-era safeguard against opportunistic acquisitions of cash strapped Indian companies, though it is widely read against the backdrop of the military stand-off with China that began on the Ladakh border around the same time and escalated into the Galwan clash two months later. The note however, did not define a beneficial owner. Authorised Dealer banks applied the requirement inconsistently, and approvals, where granted at all, took years. A narrow approach to beneficial ownership interpretation developed as well. The practical effect was a near freeze on Chinese investment: cumulative Chinese FDI into India between April 2020 and December 2025 stood at about USD 2.51 billion, just 0.32 percent of India's total FDI inflows over that period.

Press Note 2 does not remove the approval requirement. It narrows and defines it.

Analysis

Two changes stand out. First, the press note defines beneficial ownership for the first time, adopting the meaning under the Prevention of Money laundering Act, 2002, read with the thresholds in the PMLA Maintenance of Records Rules, 2005. A person is treated as a beneficial owner where they hold, directly or indirectly, more than 10 percent of the shares, capital or profits of the investing company or partnership, or more than 15 percent in the case of an unincorporated association, or otherwise exercise control over it. For individuals, the relevant test is citizenship rather than residence. This puts on a statutory footing a threshold market participants had, until now, applied informally by reference to the Companies (Significant Beneficial Owners) Rules.

Second, investment that falls below these thresholds, but comes from bordering nations does not require prior approval, subject to a reporting obligation. Press Note 3 offered only two outcomes: approval or refusal. Press Note 2 introduces a third category, investment that is permitted but tracked, a form of monitoring that did not previously exist in this framework.

Separately, the Union Cabinet's announcement of 10 March 2026 set a sixty day approval timeline for land border investment in five manufacturing sub-sectors: capital goods, electronic capital goods, electronic components, polysilicon and ingot wafer, provided majority shareholding and control of the Indian investee stays with resident Indian persons or Indian controlled entities. This sits within the government's broader push on electronics and solar manufacturing, where Chinese equipment remains difficult to substitute in the short term.

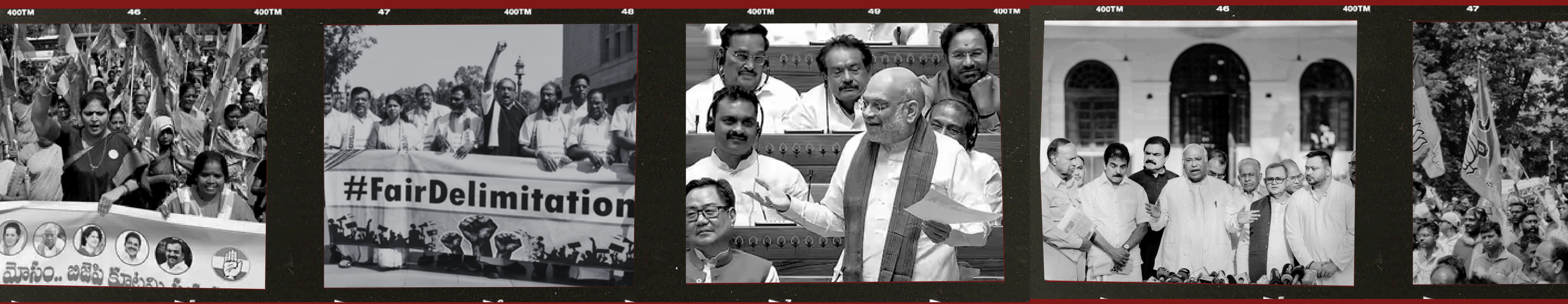
Why relax approval requirements now?

The timing is not incidental. It follows the October 2024 meeting between Prime Minister Modi and President Xi on the margins of the BRICS summit in Kazan, after which both governments spoke of working towards a more stable border arrangement, and a subsequent period in which Commerce Minister Piyush Goyal described bilateral relations as moving towards normalcy. India's land border investment policy has tracked the diplomatic relationship closely: it tightened in response to a border crisis in 2020, and it is being eased now in response to a thaw.

Two qualifications matter. A press note states policy intent without amending the binding subordinate legislation; that gap closed once DPIIT notified the corresponding amendments to the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, and issued a revised standard operating procedure on 4 May 2026 prescribing reporting formats and processing timelines. More importantly, the core restriction is untouched: investment that confers control, or crosses the prescribed beneficial ownership thresholds, still needs government clearance. What has changed is the treatment of passive, minority capital, and the precision with which the line between passive and controlling investment is now drawn. For investors and counsels who spent six years working around an undefined term, that precision matters on its own terms.

The Delimitation Dilemma

-Sanjushree Sur



In April 2026, the Union Government introduced three Bills in the Parliament including the Constitution (131st Amendment) Bill, 2026, the Delimitation Bill, 2026, and the Union Territories Laws (Amendment) Bill, 2026, proposing a complete restructuring of India's electoral framework. They sought to expand seats in the Lok Sabha from the current 543 to 850, redraw constituency boundaries on the basis of new census data, and operationalise women's reservation through the delimitation exercise. Although it stood rejected, the debate surrounding the Bill has intensified concerns regarding representation, federal balance, and the future of India's electoral framework.

Background

Delimitation refers to the process of redrawing electoral constituency boundaries to ensure equitable political representation. Articles 81 and 82 of the Constitution mandates period readjustment of parliamentary seats and constituencies according to changes in population after every decadal census. Using the census data from 1951, 1961, and 1971, India conducted delimitation exercises in 1952, 1962, and 1972 respectively. However, concerns of states implementing population control measures, losing parliamentary representation, led to the introduction of the 42nd Constitutional Amendment in 1976. This froze the allocation of seats on the basis of the 1971 Census. Subsequently, constituency boundaries were adjusted in 2002 using the 2001 Census which was extended by the 84th Constitutional Amendment,. As a result, the total number of seats allotted to each state remained unchanged.

The Current Debate

The controversy surrounding the proposed delimitation exercise primarily stems from several concerns. Firstly, the possibility that if parliamentary representation between states is conducted strictly on the growth may lose proportional representation. This risks disturbing the federal balance between states, especially widening the North-South divide in terms of representation. For instance, Tamil Nadu, Kerala, Karnataka, Andhra Pradesh, and Telangana fear that they may be penalised for improving literacy, healthcare, and fertility control. In sharp contrast, states such as Uttar Pradesh and Bihar are expected to secure larger representation due to higher population growth rates. Further concerns were raised that significantly expanding the strength of the lower house without corresponding reforms in the upper house could alter the existing federal equilibrium.

Secondly, the April 2026 Bills also linked the implementation of one-third reservation for women in Parliament and State Assemblies with the delimitation exercise. This move has faced serious backlash for unnecessarily making the reservation contingent upon a large-scale restructuring of parliamentary representation.

Thirdly, critics expressed apprehensions regarding the proposed powers of the Delimitation Commission being equivalent to those of a civil court, while its decisions remained beyond judicial review. They argued that the absence of adequate safeguards and consultation mechanisms would undermine the fairness and transparency of the exercise.

Fourthly, criticism was also directed towards the circulation of Bills shortly before the commencement of the special parliamentary session. It left limited scope for public consultation and detailed legislative scrutiny, raising questions about adherence to the principles of deliberative democracy.

At the same time, supporters of delimitation hold that due to the freeze on seat allocation since 1971, constituencies across India today represent vastly unequal populations, leading to underrepresentation in heavily populated states. Based on this, they argue that the exercise is necessary to uphold the democratic principle of "one person, one vote."

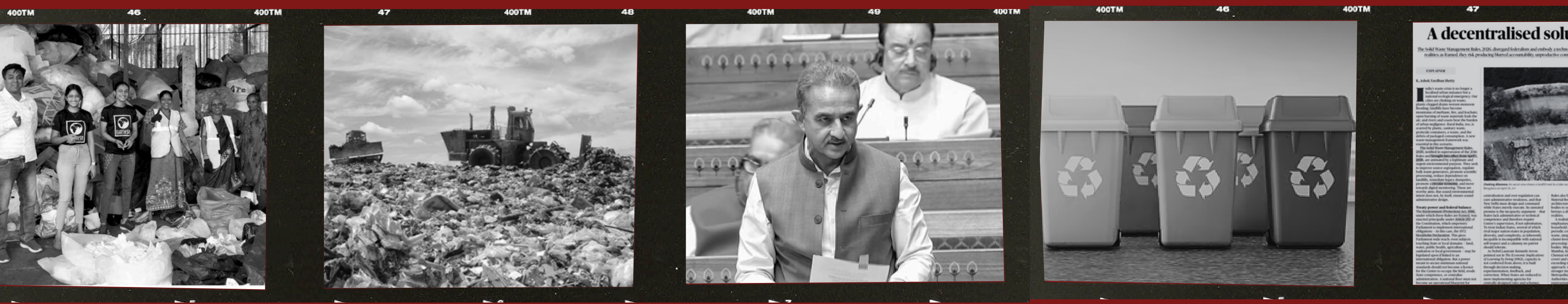
The debate has therefore evolved into a larger constitutional dilemma between democratic equality and cooperative federalism. While periodic readjustment of seats is necessary to ensure equal political representation in accordance with population changes, concerns regarding regional equity and political balance continue to remain significant. The controversy has also revived discussions regarding possible alternatives, including increasing the overall number of Lok Sabha seats without reducing existing state representation, strengthening the federal role of the Rajya Sabha, or considering developmental indicators alongside population in future seat allocation exercises.

Conclusion

As India approaches the end of the constitutional freeze on seat reallocation, the challenge before policymakers will be to balance the constitutional principle of equal representation with the need to preserve federal equilibrium and regional equity. While delimitation remains essential to maintaining democratic legitimacy, its implementation must ensure transparency, consultation, and institutional fairness so that no state perceives itself to be politically disadvantaged within the federal structure.

Reimagining Waste Governance in India: The Promise and Challenges of the Solid Waste Management Rules, 2026

- Ishani Burande



Background

Indian cities generate millions of tonnes of waste every year, making solid waste management one of the most prominent urban challenges in the country. Due to rapid urbanisation, population growth and increased consumption, this waste crisis continues to hamper the environment and public health, despite various regulatory frameworks in place.

The Solid Waste Management Rules, 2026, (‘the Rules’) which have been in effect since 1 April, 2026, highlight the government’s latest attempt to address this crisis. It aims for stronger accountability, enhanced waste segregation, and a stronger emphasis on sustainability. While the proposed framework does try to improve over the previous regulations, its ultimate success depends on its effective implementation, and public participation.

Moving from Waste Disposal to Waste Management

For years, India’s waste management framework focused mainly on the collection and disposal of waste, rather than on its sustainable management. The Solid Waste Management Rules, 2016, brought a change by expanding the scope of waste regulation beyond municipal authorities and introduced concepts such as source segregation, composting, and recognition of informal waste workers.

The Rules build upon this previous framework. The Rules focus on resource recovery, recycling, and reduction at source. Additionally, greater responsibility has been given to local bodies, bulk waste generators (BWG), and citizens. It also enforces strict monitoring mechanisms for processing and tracking. This shift tilts towards a broader goal of a circular economy, where materials are reused and recycled, rather than being discarded.

The Rules

One of the key changes is the stronger focus on mandatory waste segregation at source. Households, institutions and commercial establishments are required to separate the waste into wet waste, dry waste, sanitary waste and hazardous waste before disposal. Although some level of segregation was encouraged in the previous rules, its enforcement remained weak. The 2026 framework provides for stricter compliance and penalties for non- segregation.

Apart from this, the Rules place a greater responsibility on waste generators. Manufacturers and producers are expected to be responsible for the waste generated by them. Large housing societies, hotels, railways and other bulk waste generators are now mandated to manage the waste at the point of generation, with a mandate to process biodegradable waste on- site.

Additionally, instead of relying solely on large landfills and centralized facilities, the rules promote local solutions such as composting, biomethanation plants, and material recovery facilities. This reduces transportation costs, lower emissions and improves waste recovery rates.

The Challenge of Implementation

Despite these measures, it is important to acknowledge that India's waste management problem has never been the result of policy absence but rather policy implementation. Many previous policies introduced were ambitious on paper, but failed to achieve their intended impact.

A major reason for this is the limited capacity of the urban local bodies. Many of them continue to face shortages in funding, infrastructure, and resources. Without actually investing in these areas, stricter regulations may not be able to bring meaningful results.

Furthermore, waste segregation is a task that requires regular participation from the citizens. Public awareness is across regions. Unless this change accompanies the regulatory framework, mixed waste will continue to hinder the process of recycling and composting.

The Landfill Crisis

Possibly, the most prominently visible proof of India's waste crisis are the overflowing landfills. Massive waste mountains in cities like Delhi, Mumbai and Bengaluru have become environmental and health hazards. They release methane, contaminate groundwater and affect nearby communities.

While the Rules take up initiatives to reduce waste landing in landfills, they do little to address the enormous backlog of waste that has accumulated in these landfills over decades. Unless this is addressed, India's waste management system will continue to operate under pressure.

Recognising Informal Workers

Waste pickers and recyclers contribute immensely to recycling and material recovery across Indian cities. Yet many continue to work under unsafe conditions without any social security or formal recognition.

The 2026 rules acknowledge the importance of integrating these workers in the formal management system, but translating this recognition to actual inclusion would require significant initiative. Effective change to bring this meaningful recognition would include training, financial support and other mechanisms that protect livelihoods while improving working conditions.

The Road Ahead

The 2026 Rules mark an important change in India's waste and environmental governance. They move beyond just collecting and disposing waste and focus on a sustainable vision.

However, as seen before, regulations alone cannot solve India's waste crisis. True success would require the collective efforts of governments, businesses and citizens. Additionally, municipal bodies must be equipped with adequate resources, waste generators must be held accountable if they do not abide by the rules, and individuals must adopt responsible waste practices.

The 2026 Rules provide a stronger and a more comprehensive framework as compared to its predecessors, but they are not the complete solution. The true test of their success lies in their implementation.

Decoding the SEBI AIF Amendments 2026: Democratizing Social Impact and Easing Fund Operations

- Aryan Chowdhury

Introduction

On April 16, 2026, the Securities and Exchange Board of India (SEBI) notified the SEBI (Alternative Investment Funds) (Amendment) Regulations, 2026 (‘Amendments Regulations’). This legislative update introduces pivotal changes to the regulatory architecture governing Alternative Investment Funds (‘AIFs’) in India. Two of the most notable reforms include the drastic reduction of the minimum investment threshold for specific social impact funds and the introduction of the “inoperative fund” classification. These amendments reflect a maturing regulatory approach, aiming to strike a balance between easing the operational burden for fund managers and democratizing participation in social venture capital.

Analysis

The Amendment Regulations tackle practical industry challenges and introduce significant operational flexibility.

- **Democratizing Social Impact Funds:** Under the previous framework, the minimum investment limit for an individual investor in a social impact fund, specifically those investing solely in securities of not-for-profit organizations listed on a social stock exchange, was strictly set at INR 2,00,000. The Amendment Regulations reduces this threshold significantly to just INR 1,000. This lowers the entry barrier, encouraging broader retail participation in socially beneficial investment opportunities and aligning with national developmental goals.

- The "Inoperative Fund" Classification: Historically, AIFs that had completed their investment lifecycle but were unable to fully surrender their registration due to unresolved tax liabilities, litigation, or residual operational expenses were forced to maintain full regulatory compliance. By formally recognizing an inoperative status, SEBI provides a structured pathway to reduce the compliance and administrative burden on funds that have no active fund management ongoing.

- Flexibility in the Liquidation Process: The Amendment Regulations refines the legal wording regarding the liquidation period. It clarifies that unliquidated assets shall be sold off and the proceeds distributed after satisfying all liabilities, explicitly noting that this will be subject to Board's discretion (through amendments or circulars).. This ensures a more predictable and legally sound exit framework for funds dealing with hard-to-liquidate assets.

Is the Amendment enough?

While the Amendment Regulations offer much-needed operational relief and promote inclusive investing, there are potential loopholes and areas of concern:

- Retail Exposure to High-Risk Illiquid Assets: By lowering the investment threshold to INR 1,000 for social impact funds, the Amendment Regulations blurs the traditional boundary between sophisticated, private capital vehicles (AIFs) and retail-oriented mutual funds. AIFs inherently carry higher risks and severe illiquidity. Inviting un-savvy retail investors into this space could expose them to prolonged capital lock-ins without guaranteed financial returns, bypassing the core principle that AIFs are designed for sophisticated investors.

- Risk of "Zombie Funds": There is a potential risk that the "inoperative fund" tag could be exploited by fund managers. If SEBI's subsequent operational guidelines are not adequately stringent, managers might use the designation to indefinitely park unliquidated assets or delay the final wind-up process under the guise of "pending liabilities." This could trap investor capital indefinitely.

- Regulatory Ambiguity: The Amendment Regulations introduces the inoperative fund but makes it subject to SEBI discretion. This open-ended wording creates regulatory ambiguity until detailed circulars are issued defining the exact boundaries, allowable expenses, and time limits for this status.

Conclusion

The Amendment Regulations represent a pragmatic step toward refining India's alternative investment ecosystem. By drastically lowering the barrier to entry for social impact funds, SEBI is actively channeling capital toward social enterprises and non-profits. Concurrently, the "inoperative fund" framework grants highly anticipated practical relief to AIFs grappling with the administrative limbo of their wind-down phase. Ultimately, the success of these reforms will depend on SEBI's ability to enforce rigorous operational safeguards, ensuring that increased market accessibility does not compromise investor protection.

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