

FinTax hour GIFT IFSC: Family Investment Fund



Fund ecosystem in GIFT IFSC

A financial gateway of India

Visit us: <https://www.giftgujarat.in/>



Table of contents

01

GIFT City:

The new epicenter of global finance and IT

02

GIFT IFSC:

Overview, objectives, IFSC ecosystem & business growth opportunities

03

AIFs and Family offices in GIFT City:

Regulatory & tax implication, setting up at GIFT City

GIFT City: The new epicenter of global finance and IT

India's 1st Operational Smart City & IFSC



Government of India operationalized GIFT City as an IFSC in 2015



01

A Greenfield Smart City developed on **886 acres of land** and is being expanded to another **2000 acres of land**. Developed by Government of Gujarat and supported by Govt. of India. The financial gateway of India for **inbound & outbound investment**

02

The Global Financial Centers Index (GFCI) report, London placed the IFSC in GIFT City **among 15 centers globally** that are likely to become more significant over the subsequent two to three years. GIFT City was also ranked **1st in reputational advantage in the GFCI**

GIFT City: master plan



“ India is one of the world’s leading economies and will grow even bigger going forward; we should build institutions that can cater to our present and future roles ”

- **Hon'ble Prime Minister, Narendra Modi**

GIFT City is located between Ahmedabad and Gandhinagar in the state of Gujarat. While Ahmedabad is the business capital of the state, Gandhinagar serves as its political capital, epitomising modern architecture and planning. The tri-cities stand together as proud symbols of an era gone by, and a future which holds many promises

GIFT City: state of art infrastructure



Automated Waste
Collection & Segregation
Plant



Utility Tunnel

District Cooling Plant



Water Treatment
Plant



GIFT City: state of art infrastructure is a continuous endeavour to create a formidable ecosystem

Table of contents

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02

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03

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Regulatory & tax implication, setting up at GIFT City

GIFT IFSC: Catering to India's demand



Key financial services being availed from overseas jurisdictions

Banking Services: ECB, Trade Finance, Non-Deliverable Forwards & Loan syndication

Funds Industry: Pooling of global capital by Pvt. Equity/ VC Funds/ Hedge Funds for investments into India

Capital Markets: Issuance & listing of Bonds including ESG bonds, trading of Indian securities & products

Insurance: Reinsurance business
Aircraft & Ship Leasing business

GIFT IFSC: Objectives

International Financial Service Centre at GIFT City

#1

In India, an IFSC is approved and regulated by the Government of India under the Special Economic Zones Act, 2005

#2

Government of India has approved GIFT City as a Multi Services Special Economic Zone ('GIFT SEZ') and has also notified this zone as India's IFSC

#3

The launch of the IFSC at GIFT City is the first step towards bringing financial services transactions relating to India, back to Indian shores

#

4

IFSC unit is treated as a non-resident under extant Foreign Exchange Management regulations

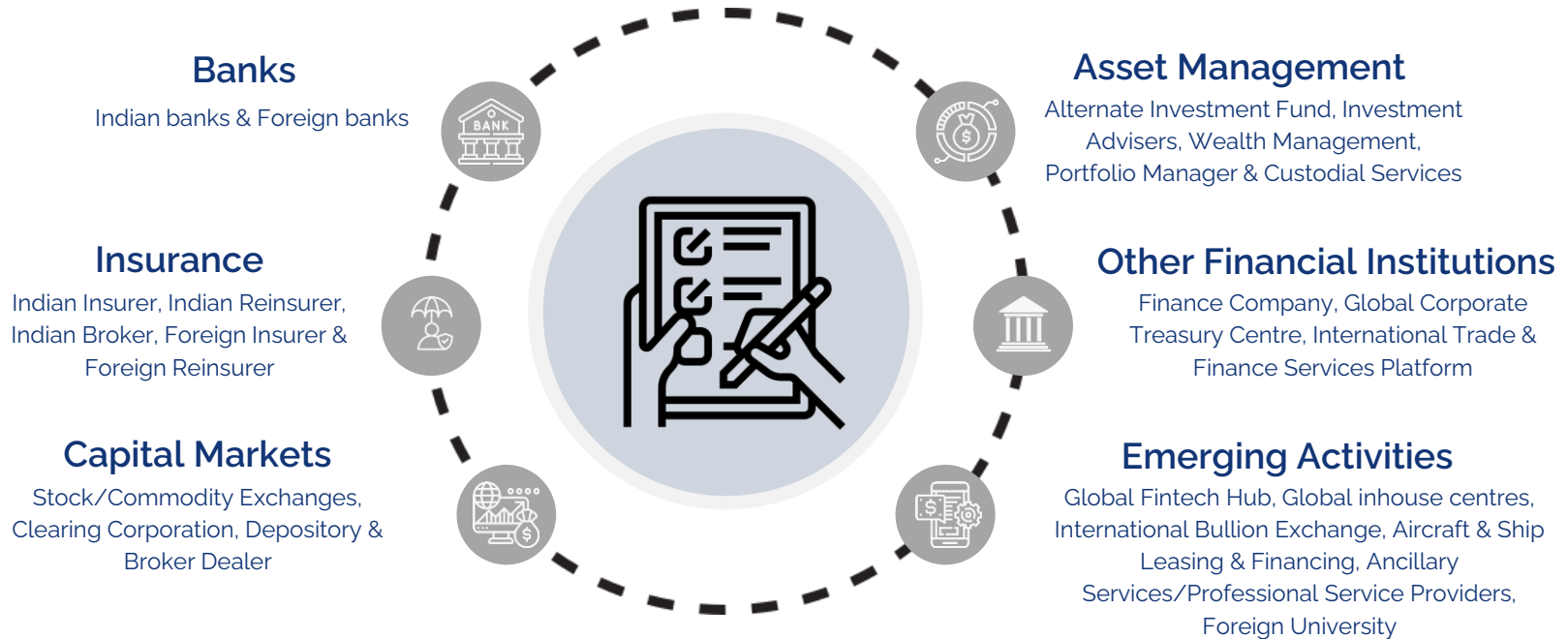
Objectives of GIFT IFSC

To onshore significant financial services business from offshore financial services centres carried out by residents and non-residents

To become the gateway for inbound and outbound international financial services for India

To create a Global Financial Hub with large number of direct and indirect jobs

Business activities permitted in IFSC



Key players at GIFT City



27 banks

70+ Capital markets intermediaries



2 International Stock Exchanges

25+ Aircraft leasing firms



International Bullion Exchange & Bullion Vaults

45+ Fintech entities



29 Insurance & Reinsurance firms

100+ Alternative Investment Funds



2 Foreign Universities

8 Ship leasing firms

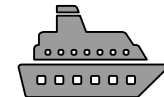


Table of contents

01

GIFT City:

The new epicenter of global finance and IT

02

GIFT IFSC:

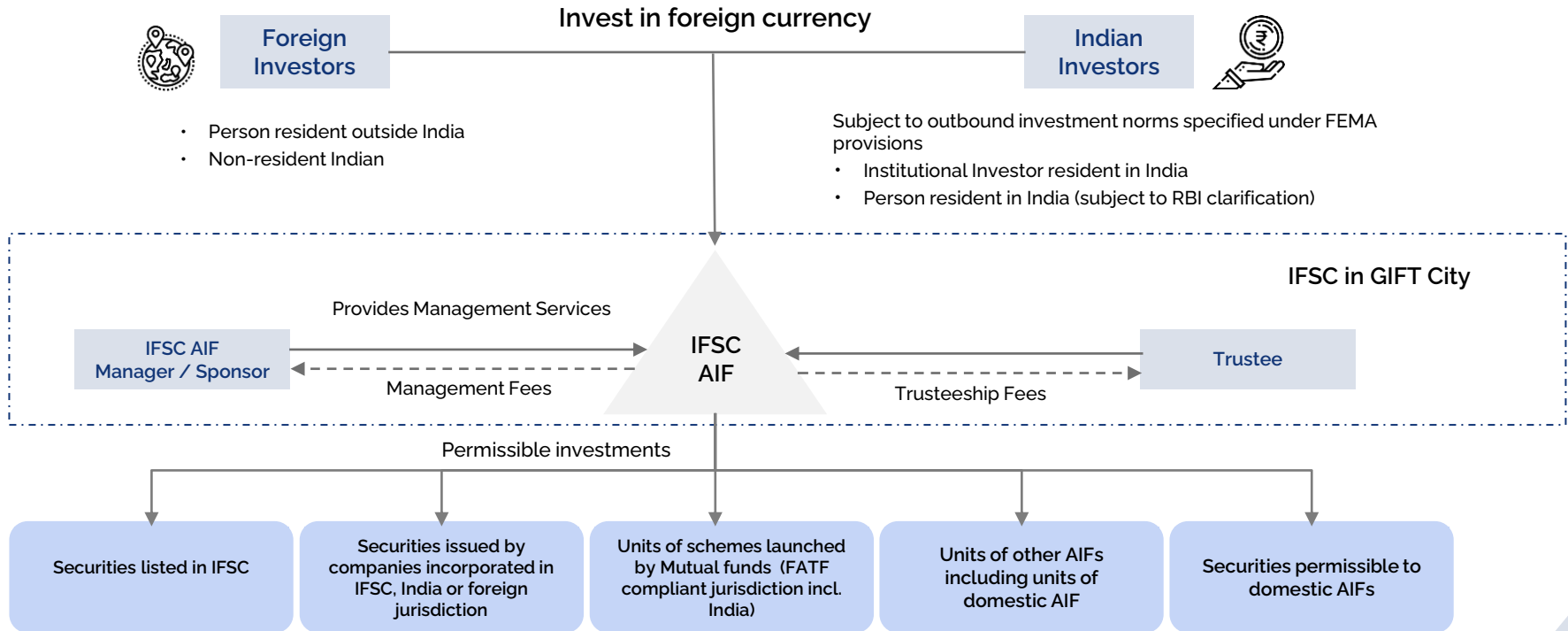
Overview, objectives, IFSC ecosystem & business growth opportunities

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AIFs and Family offices in GIFT City:

Regulatory & tax implication, setting up at GIFT City

AIFs in GIFT City



Tax implications

Tax certainty

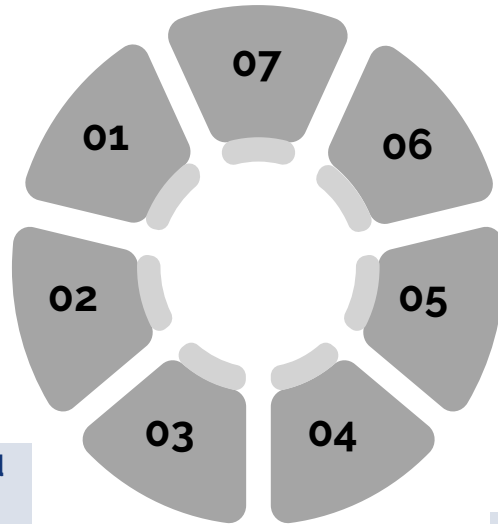
Certainty on classification of income arising to AIFs in GIFT IFSC.
 No requirement for non-resident investors in IFSC AIF to obtain PAN and file tax returns.

Leveraged permitted

No restrictions on leverage, provided:
 Appropriate disclosure in PPM
 Consent of the investors
 Comprehensive risk management framework in place

Investments through segregated portfolio and AIFs in India

Co-invest in a portfolio company through a segregated portfolio by issuing a separate class of units
 Terms shall not be unfavourable to other investors under common portfolio
 Permitted to invest in an AIF registered with SEBI in India



Portfolio diversification

No investment restrictions in single investee company

Investments in mutual funds

Permitted to invest in units of schemes launched by mutual funds from FATF compliant jurisdiction, including India

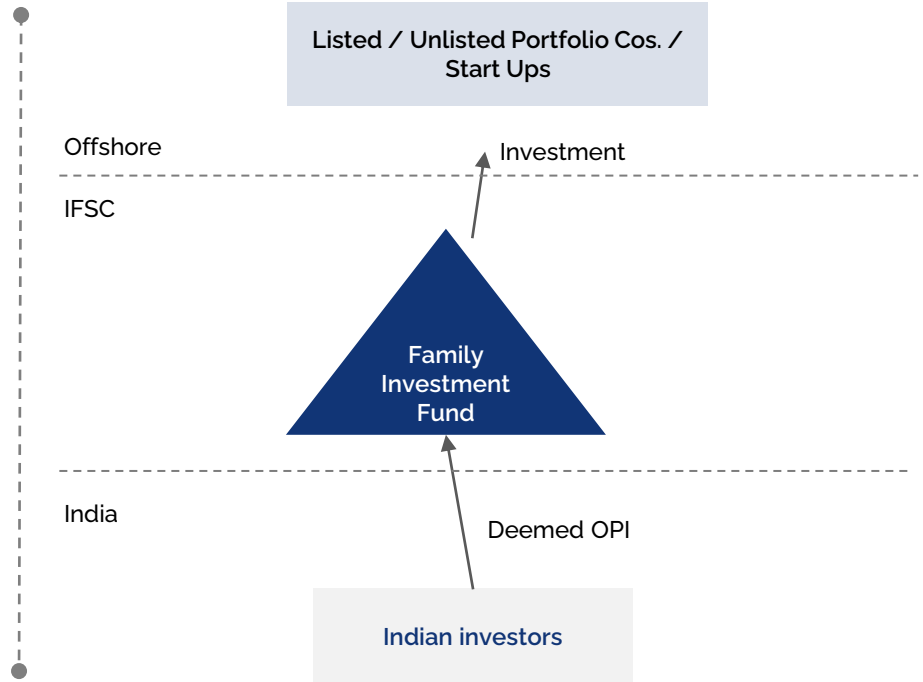
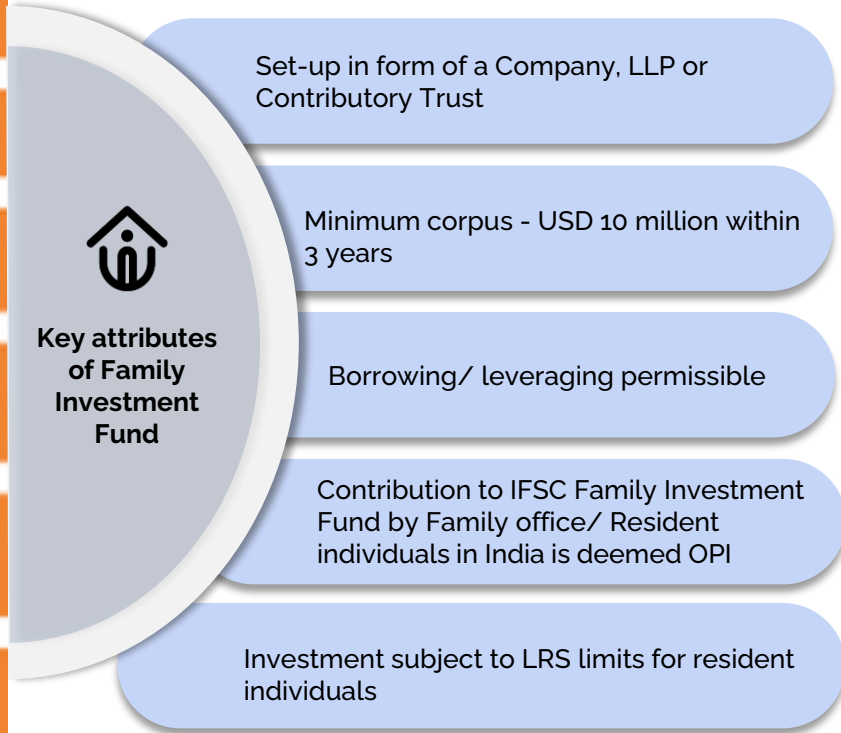
No restriction on overseas investment

No restriction on overseas investments for AIFs in GIFT IFSC

Investment restrictions

FPI / FD / FVCI related restrictions and compliance requirements would apply for IFSC AIFs

Family investment fund



*Single Family: A group of individuals who are the lineal descendants of a common ancestor and includes their spouses (including widows and widowers, whether re married or not and children (including stepchildren, adopted children, ex nuptial children)

Permissible Investments by Family investment fund

Securities issued by the unlisted entities

Securities listed or to be listed or traded on stock exchanges in IFSC, India or Foreign jurisdictions

Money Market Instruments & Debt Securities

Securitized debt instruments, which are either asset backed or mortgage-backed securities

Physical assets such as real estate, bullion, art etc.

Investment in LLPs

Investment schemes set up in IFSC, India and Foreign Jurisdictions

Derivatives including commodity derivatives

Units of AIFs in India and foreign jurisdictions

Such other securities or financial product/assets or instruments as specified by the Authority

Overseas Investment – Indian Entity

<u>ODI</u>	<u>OPI</u>
<p>Limit: 400% of net worth as per last audited balance sheet</p>	<p>Limit: Should not exceed 50% of net worth as per last audited balance sheet</p>
<p>Quantum of Investment: For equity shares (listed/unlisted), Perpetual/ irredeemable instruments and Fully and compulsorily convertible instruments: →Investment >=10% or Investment <10% with control in listed entity; →Investments in unlisted entities irrespective of quantum are regarded as ODI.</p>	<p>Type of investment – Other than ODI</p> <p>Listed Company in India - permissible to make OPI including by way of reinvestment and in units of overseas investment funds duly regulated by financial services regulator in host jurisdiction including IFSC.</p>
<p>Permissible investments</p> <ul style="list-style-type: none"> →Subscription as a part of MOA/Purchase of equity capital of listed or unlisted →Acquisition through bidding or tender procedure →Acquisition of equity capital by way of rights issue or allotment of bonus shares →Capitalization of outstanding receivable subject to conditions Swap of shares →Merger, demerger, amalgamation, or any scheme of arrangement as permissible in India and Outside India. 	<p>Unlisted Company in India - permissible only in following cases:</p> <ul style="list-style-type: none"> →Rights issue or allotment of bonus shares →Capitalization within specified time →Swap of shares →Merger, demerger, amalgamation, or any scheme of arrangement as permissible in India and Outside India →Units of investment funds / vehicle set-up in IFSC.

Overseas Investment – Resident Individuals

<u>ODI</u>	<u>OPI</u>
<p>Limit: Up to LRS limit of US \$250,000 per financial year</p>	<p>Limit: Up to LRS limit of US \$250,000 per financial year</p>
<p>Can make Investment in Foreign Entity (FE) subject to conditions: →Not to be in financial services →Allowed in operating Foreign Entity →FE does not have subsidiary/step-down subsidiary →RI has a control in foreign entity</p> <p>Where a resident individual has made ODI without control in a foreign entity that subsequently acquires or sets up a subsidiary/SDS, such resident individual shall not acquire control in such foreign entity.</p> <p>IFSC - RI permissible may make ODI, including in an entity engaged in financial service activity (except banking or insurance) in IFSC –if such entity does not have subsidiary/SDS outside IFSC where the RI has control in the foreign entity.</p>	<p>Investment in foreign entity subject to following conditions: →OPI is permissible including by way of reinvestment and in units of overseas investment funds duly regulated by financial services regulator in host jurisdiction including IFSC</p>

Incentives & Exemptions

Tax incentives

Income-tax Holiday

10 years out of a block of 15 years

Minimum Alternate Tax (MAT) @ 9% ++

NIL MAT, where concessional tax regime opted by domestic company

Dividend

10% ++ on Dividend paid to non-resident by units in IFSC

No Customs Duty

On goods imported in IFSC from outside India

No GST

On output supply/ services to offshore clients/ other IFSC units

++Increased by the education cess and surcharge

Subsidies and exemption

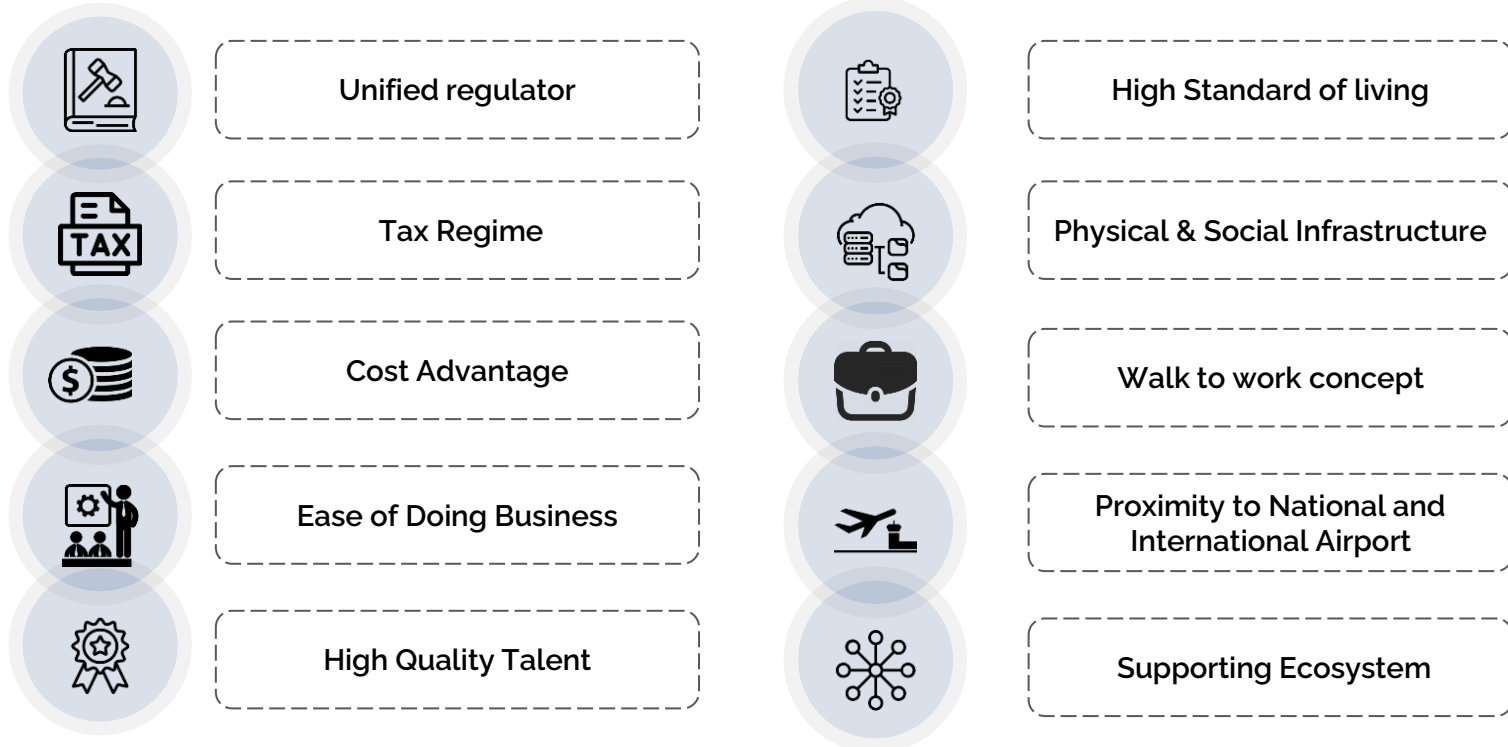
Stamp Duty Exemption

Exemption/ reimbursement of Stamp duty/ registration fee (Real estate)

Corporate law relaxation

Various relaxations from approvals, Corporate Social Responsibility contribution, fewer compliances

Benefits of setting up at GIFT IFSC





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382355. Gujarat

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Singapore for Family Offices

Presented by DBS



AGENDA

1 THE IDEAL LOCATION

Why Singapore

2 THE IDEAL SOLUTION

Why consider a Family Office

- Singapore Single Family Office
- DBS Multi Family Office Foundry Variable Capital Company

Why Singapore



Strong regulatory framework



Stable and pro-business Government policies



Highly regarded for transparency



Established financial services industry and well-developed infrastructure



Balanced, well-regarded internationally & supports value creation Intellectual Property laws



Competitive Tax Schemes



Skilled labour force and talent pool



Aims to be Regional Philanthropy Hub*

1st

Operational stability for businesses

Source: World Intellectual Property Organization, Global Innovation Index 2023

Economic Freedom

The Heritage Foundation - Index of Economic Freedom 2023

Ease of doing Business

The 17th Annual Report by The World Bank 2020

2nd

World Global Connectedness

Deutsche Post DHL Group, DHL Global Connectedness Index 2022

Globally best in attracting talent 2022

INSEAD Global Talent Competitiveness Index 2022

Economic performance

International Institute for Management Development World Competitiveness Ranking 2023

Best Country for building Family Wealth

Henley & Partners - <https://www.bloomberg.com/news/articles/2024-02-13/switzerland-us-and-singapore-are-best-places-to-build-family-wealth>

3rd

Largest recipient of Foreign Direct Investments (FDI) in the world

United Nations Conference on Trade and Development, World Investment Report 2023

Most Digitally Competitive economy in the world

International Institute for Management Development (IMD) World Competitiveness Rankings 2023

~90

Avoidance of double taxation agreements

<https://www.iras.gov.sg/taxes/international-tax/list-of-dtas-limited-dtas-and-eoi-arrangements>

*<https://www.straitstimes.com/singapore/singapore-aims-to-be-regional-centre-for-philanthropy-dpm-wong>



Singapore, an Attractive Base for Family Office in Asia

Wealth & Asset Management

Robust financial hub and regional expertise to invest in Asia

- > 200 Banks
- > 50 Trust Companies
- > 900 Fund Management Companies
- > 300 Insurance Companies

Family Office Incorporation

- Full suite of professional services to manage unique family needs
- 1,400 family offices established
- 54% of global FOs plan to increase asset allocation in APAC over next 5 years
- 68% of family offices in APAC engaged in sustainable investments in 2021*

Investment Opportunities

- Connectivity to a thriving startup scene
- > 30 research institutions and institutes of higher learning
 - > 3,600 tech startups
 - > 150 venture capitalist and angel networks
 - > 190 incubators and accelerators

Philanthropy

- Vibrant philanthropy landscape with an active ecosystem to drive collaboration
- Philanthropy Tax Incentive Scheme for Family Offices

Network and Communities

- Exclusive ecosystem to exchange ideas and explore business opportunities
- Wealth Management Institute, Global Family Office Circle
- Business Families Institute @ Singapore Management University
- Family Business Network Asia
- Milken Institute Asia Centre

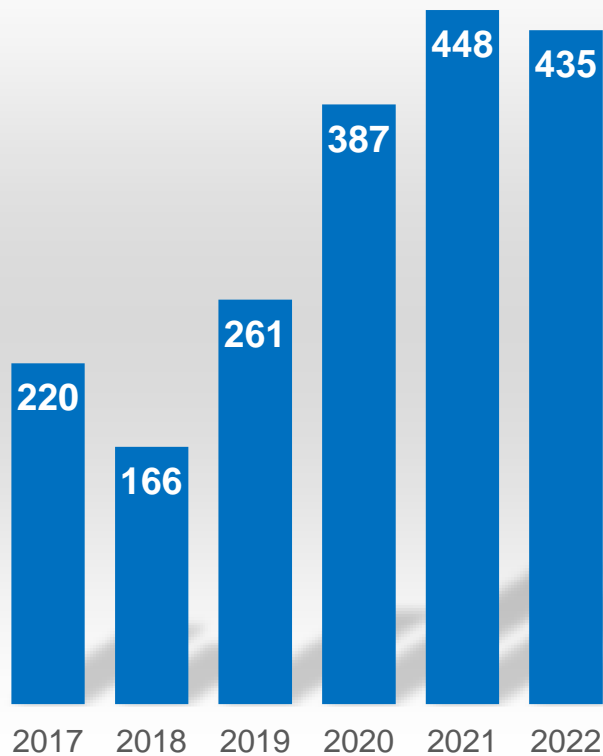
Why Singapore



\$S\$4.9 Trillion Assets Under Management

2022 Singapore Asset Management Survey

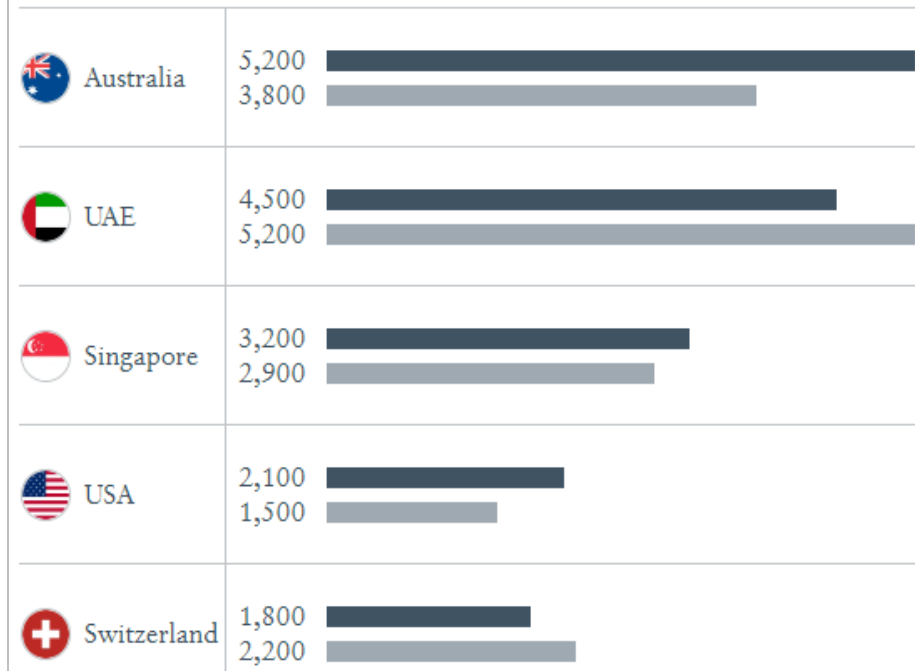
AuM Net Inflows (\$ Billion)



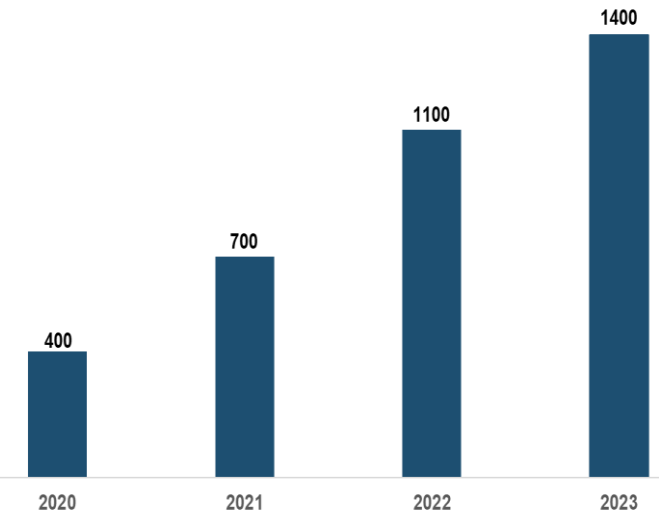
3rd Highest HNWI Inflows

Source: The Henley Private Wealth Migration Dashboard

■ Forecast Net HNWI Inflows 2023
■ Actual Net HNWI Inflows 2022



Number of Family Offices in Singapore





AGENDA

1 THE IDEAL LOCATION

Why Singapore

2 THE IDEAL SOLUTION

Why consider a Family Office

- Singapore Single Family Office
- DBS Multi Family Office Foundry Variable Capital Company

Why Consider a Single Family Office

Holistic wealth management through consolidation of assets

Centralisation of risk management, advisory and administrative services

Economies of scale

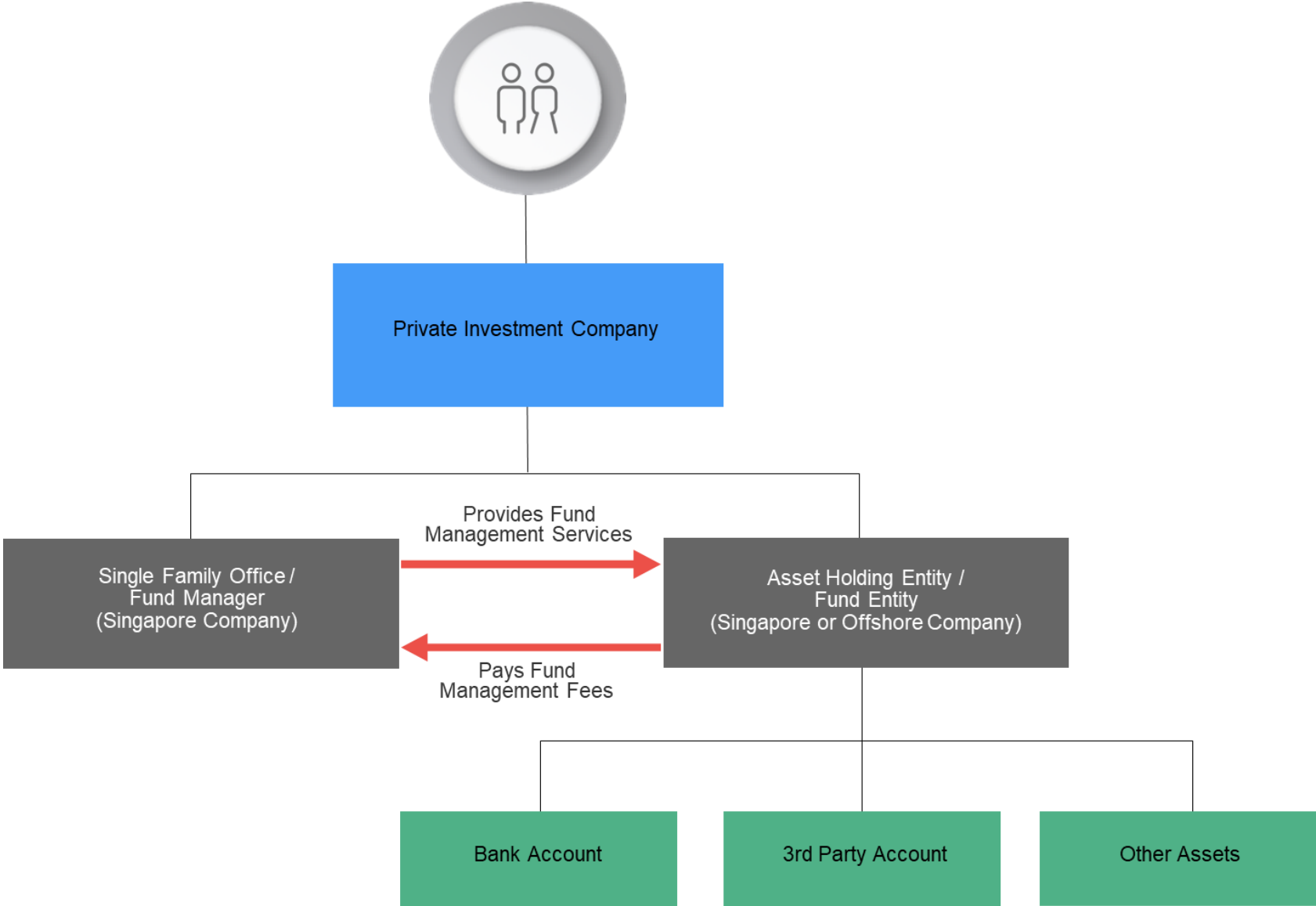
Tax exemptions

Immigration

Engaging the next generation



Example of a Single Family Office Structure



Tax Exemption Schemes for Single Family Offices

S13D

(Formerly S13CA)

The Offshore Fund
Tax Exemption Scheme

S13O

(Formerly S13R)

The Onshore Fund
Tax Exemption Scheme

S13U

(Formerly S13X)

The Enhanced Tier Fund
Tax Exemption Scheme

Base condition for applying for any of these 3 tax exemption schemes:

1. Applicant (i.e. fund entity) must be managed by a Singapore-based fund manager, i.e. the Single Family Office.
2. Fund entity must be managed by an exempt Fund Management Company that manages assets for or on behalf of family members and is wholly owned or controlled by members of the same family

In establishing a Singapore-based family office, it needs:

1. To hold a Capital Markets Services license under the Singapore Securities and Futures Act; or
2. To be specifically exempt under that Act from holding such a CMS license for fund management, e.g. family members or related corporation exemption

Benefits of the tax exemption schemes:

1. Certainty of Singapore tax treatment for investment income derived by the fund entity
2. Tax exemptions on **Specified Income** from **Designated Investments**

Designated Investments and Specified Income

Specified Income is exempted from Singapore tax if it arises from **Designated Investments**

Examples of Designated Investments:

- Certain Stocks and Shares
- Bonds, Notes Commercial Papers, Treasury Bills, Certificates of Deposits
- Certain REITs (buying & selling)
- Futures Contracts
- Deposits held in Singapore approved banks
- Foreign Currency Deposits held outside Singapore
- Foreign Exchange Transactions
- Interest Rate or Currency Contracts
- Structured Products
- Certain Unit Trusts
- Certain exchange traded funds or any other securities
- Commodity Derivative
- Physical Commodities (conditions apply)
- Certain Loans granted to non-resident company
- Credit Facilities & Advances

Examples of Specified Income:

Any income or gains derived from designated investments such as dividend, interest, coupons, gains from sale of securities, bonds, etc.

Examples of income which are not tax exempt under any of the 3 tax exemption schemes:

- Distributions from Singapore Listed REITs
- Rental income from Singapore Properties
- Trading gains from physical precious metals
- Trading gains of cryptocurrencies
- Insurance Proceeds (does not require tax exemptions as it is generally tax exempt)

For more details, refer to Singapore Income Tax Act 134 Regulation 2010.
Please be advised that this does not constitute tax advice and should not be regarded as such.

Requirements of Tax Exemption Schemes

S13D

(Formerly S13CA)

The Offshore Fund
Tax Exemption Scheme

Requirements for 13D

- No prior Monetary Authority of Singapore (MAS) approval for 13D tax exemption scheme is required
- 100% of the value of its issued securities of fund entity can be beneficially owned, directly or indirectly by Singapore Persons, subject to “Qualifying Investor Test”¹
- No minimum Fund size
- No minimum annual business spending
- No Capital Deployment Requirement
- Employs at least 1 investment professional (IP)

S13O

(Formerly S13R)

The Onshore Fund
Tax Exemption Scheme

Requirements for 13O

- Prior MAS approval for 13O tax exemption scheme is required
- Ability to leverage on Singapore’s double taxation agreement (DTA) network
- 100% of the value of its issued securities of fund entity can be beneficially owned, directly or indirectly by Singapore Persons, subject to “Qualifying Investor Test”¹
- Fund size of at least S\$20 million in designated investments at point of application
- Minimum S\$200,000 in annual local business spending
- Capital Deployment Requirement of 10% or S\$10 million of AuM (whichever is lower) in local investments
- Employs at least 2 investment professionals (IP) with at least 1 IP being an individual who is not a family member

S13U

(Formerly S13X)

The Enhanced Tier Fund
Tax Exemption Scheme

Requirements for 13U

- Prior MAS approval for 13U tax exemption scheme is required
- Ability to leverage on Singapore’s double taxation agreement (DTA) network depends on Asset Holding Entity
- No restriction on Singapore Investor threshold
- Fund size of at least S\$50 million in designated investments at point of application
- Minimum S\$500,000 in annual local business spending
- Capital Deployment Requirement of 10% or S\$10 million of AuM (whichever is lower) in local investments
- Employs at least 3 investment professionals (IP) with at least 1 IP being an individual who is not a family member

DBS Multi Family Office Foundry VCC – Launched on 12 June 2023

THE STRAITS TIMES

BUSINESS

DBS launches world's first multi-family office VCC for ultra-rich families to manage their wealth



Called the DBS Multi Family Office Foundry VCC, it will operate as an umbrella VCC with underlying sub-funds. ST PHOTO: LIM YAOHUI



Introducing – DBS Multi Family Office Foundry VCC

First Multi Family Office managed by a bank in Singapore, offering a full suite of investment services through a single platform, from investment management, trade execution to custody solutions

Managed by DBS Bank Ltd., one of the highest rated banking groups in Asia

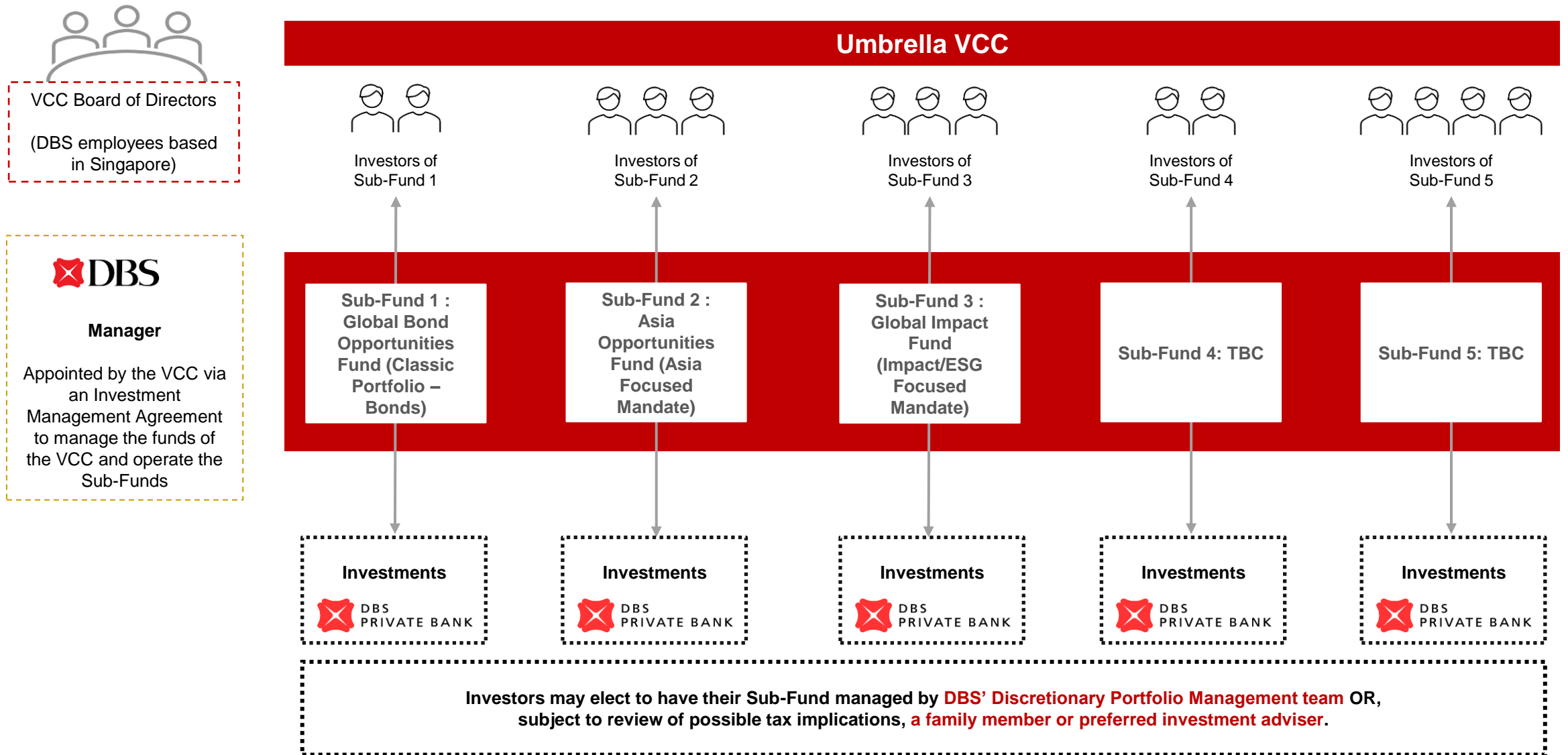
Established as an umbrella variable capital company (VCC) with multiple Sub-Funds, offering a range of customisable investment strategies to our clients

Clients can elect to have their Sub-Fund managed by DBS' Discretionary Portfolio Management (DPM) Team or by a family member or investment adviser of their choice (subject to review of potential tax implications)

Clients will enjoy tax exemption on all specified income derived from designated investments held under the DBS Multi Family Office Foundry VCC Sub-Funds



DBS Multi Family Office Foundry VCC – Schematic Diagram



DBS Multi Family Office Foundry VCC - Benefits

01 Tax exemption schemes for Singapore-based funds

Investors can enjoy tax exemptions on specified income derived from designated investments made through the Sub-Funds without having to set up their own Single Family Office and applying for the Section 13O or 13U Tax Exemption

02 Secure Certainty of Singapore Tax Treatment

With the benefit of the Singapore tax exemption scheme, investors will have assurance on the tax treatment of gains arising from frequent and active trading which may subject Singapore tax resident individuals and companies to Singapore tax on trading gains

03 Management and Control from Singapore

VCC's board of directors, company secretary and auditor are based in Singapore. Day-to-day fund management and operations are carried out by DBS Bank Ltd., a Singapore-based manager

04 Preserving Privacy

Constitution and register of shareholders of VCC are not publicly available

05 Corporate Governance

VCC is managed by DBS Bank Ltd., a licensed bank in Singapore, ensuring a high standard of governance and oversight

06 Cost Savings

VCC and all Sub-Funds share a single board of directors, investment manager and other service providers, reducing operational costs. Minimum Annual Business Spending requirement under the Singapore tax incentive schemes is also shared across the Sub-Funds

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Pre-Webinar Polling question - 1

Should a family office be regulated in India?



- Yes
- No
- May be

- Results: 6193 votes:
- Yes 77%
- No 15%
- May be 8%

Family Investment Fund – Authorised FME under IFSCA regulations

Features

- Family investment fund means a self-managed fund, pooling money only from a single family.
- “single family” means a group of individuals who are the lineal descendants of a common ancestor and includes their spouses (including widows and widowers, whether remarried or not) and children (including stepchildren, adopted children, ex nuptial children). It shall also include entities such as sole proprietorship firm, partnership firm, company, limited liability partnership, trust or a body corporate, in which an individual or a group of individuals of a single family exercises control and directly or indirectly hold substantial economic interest.
- May be set-up as a Company, Trust (Contributory Trust only) or Limited Liability Partnership or any other form as may be permitted. In case of Contributory Trust Vehicle, it should be ensured that:
 - The beneficiaries are identifiable based on Trust deed, even though not specifically named;
 - The share of each beneficiary should be capable of being determined based on prescribed provision/ formula prescribed in the trust deed;
 - Addition of further contributors shall not make the existing beneficiaries unknown or their shares indeterminate
- Minimum corpus – USD 10 million within period of three years from date of obtaining certificate of registration.
- May be open ended or close ended.
- Leveraging and borrowing permissible, as per their risk management policy.

Permissible Investments

- Permissible activities: All activities related to managing family investment fund and as may be specified by IFSCA
- Permissible instruments:
 - Securities issued by the unlisted entities
 - Securities listed or traded on stock exchanges in India and foreign jurisdictions
 - Money Market Instruments and Debt securities
 - Securitised debt instruments, which are either asset backed or mortgage-backed securities
 - Other investment schemes set up in the IFSC, India and foreign jurisdiction
 - Derivatives including commodity derivatives
 - Units of mutual funds and alternative investment funds in India and foreign jurisdiction
 - Investment in Limited Liability Partnerships
 - Physical assets such as real estate, bullion, art, etc.
 - Such other securities or financial assets or instruments as specified

Permissible Investments as per RBI OI directions 2022

OPI shall not be made in: (i) any unlisted debt instruments; or (ii) any security which is issued by a person resident in India who is not in an IFSC; or (iii) any derivatives unless otherwise permitted by Reserve Bank; or (iv) any commodities including Bullion Depository Receipts (BDRs).

Foreign Exchange Management (Overseas Investment) Rules, 2022 / Regulations, 2022 / Directions, 2022

With a view to liberalize regulatory framework and to promote ease of doing business, the Reserve Bank of India has issued Foreign Exchange Management (Overseas Investment) Rules, 2022 (“OI Rules”), Foreign Exchange Management (Overseas Investment) Regulations, 2022 (“OI Regulations”) and Foreign Exchange Management (Overseas Investment) Directions, 2022.

- “Overseas Direct Investment (ODI)” means
 - (i) acquisition of any unlisted equity capital or subscription as a part of the Memorandum of Association of a foreign entity, or
 - (ii) investment in 10% or more of the paid-up equity capital of a listed foreign entity, or
 - (iii) investment with control where investment is less than 10% of the paid-up equity capital of a listed foreign entity.

Explanation: Once an investment in a foreign entity is classified as ODI, the investment shall continue to be treated as ODI even if such investment falls below 10% of the paid-up equity capital or the investor loses control in the foreign entity.

Foreign Exchange Management (Overseas Investment) Rules, 2022 / Regulations, 2022 / Directions, 2022

“Overseas Portfolio Investment (OPI)” means investment, other than ODI, in foreign securities. The following is further provided:

- a) OPI shall not be made in: (i) any unlisted debt instruments; or (ii) any security which is issued by a person resident in India who is not in an IFSC; or (iii) any derivatives unless otherwise permitted by Reserve Bank; or (iv) any commodities including Bullion Depository Receipts (BDRs).
- b) OPI by a person resident in India in the listed equity capital of a listed entity, even after its delisting, shall continue to be treated as OPI until any further investment is made in the entity, i.e., any further investment made in the equity capital of the foreign entity after its delisting shall be made as ODI.
- c) A listed Indian company may make OPI, including by way of reinvestment, in accordance with **schedule II** of the OI Rules.
- d) An unlisted Indian entity may make OPI in accordance with **schedule II** of the OI Rules.
- e) The investment (including sponsor contribution) in units of any investment fund overseas, duly regulated by the regulator for the financial sector in the host jurisdiction, shall be considered as OPI. Accordingly, in jurisdictions other than IFSC, listed Indian companies and resident individuals may make such investment. Whereas in IFSC an unlisted Indian entity may also make such OPI in units of an investment fund or vehicle, in terms of **schedule V** of the OI Rules subject to limits, as applicable.
- f) Resident individuals may make OPI within the overall limit for Liberalised Remittance Scheme (LRS) in terms of **schedule III** of the OI Rules. Further, shares or interest acquired by the resident individuals by way of sweat equity shares or minimum qualification shares or under Employee Stock Ownership Plan (ESOP)/ Employee Benefits Scheme up to 10% of the paid-up capital/stock, whether listed or unlisted, of the foreign entity and without control shall also qualify as OPI.
- g) Any investment made overseas in accordance with **schedule IV** of the OI Rules in securities as stipulated by SEBI by Mutual Funds (MFs), Venture Capital Funds (VCFs) and Alternative Investment Funds (AIFs) registered with SEBI shall be considered as OPI.

Foreign Exchange Management (Overseas Investment) Rules, 2022 / Regulations, 2022 / Directions, 2022

Overseas Direct Investment (ODI) by Indian Entity in IFSC

Indian Entity	ODI in foreign Entity	Subject to the financial commitment limit, reporting and documentation as per the OI Rules/Regulations and other applicable provisions:
a) Engaged in Financial Services activity	Engaged in Financial Services activity	<ul style="list-style-type: none"> • the Indian entity has posted net profits during the preceding three financial years • the Indian entity is registered with or regulated by a financial services regulator in India • the Indian entity has obtained approval as may be required from the regulators of such financial services activity, both in India and the host jurisdiction (IFSC), as the case may be, for engaging in such financial services. <p>Further where the requisite approval by the financial services regulator concerned shall be decided within 45 days from the date of receipt of application complete in all respects failing which it shall be deemed to be approved.</p>
	Not engaged in Financial Services activity	Subject to the guidelines issued by the respective regulator.
b) Not engaged in Financial Services activity	Engaged in Financial Services activity except banking or insurance	Indian entity has posted net profits during the preceding three financial years. However, an Indian entity not meeting 3-year profitability condition may make such ODI in a foreign entity in IFSC in India.
	Engaged in general and health insurance	Apart from the 3 years profitability criteria, such insurance business is supporting the core activity undertaken overseas by such Indian entity. For instance, health insurance to support medical/hospital business, vehicle insurance to support the manufacturing/export of motor vehicles, etc.
c) Overseas investment in any sector by banks and non-banking financial institutions regulated by the Reserve Bank shall be subject to such other conditions as may be stipulated by the regulatory department concerned of the Reserve Bank in this regard.		
d) A foreign entity will be considered to be engaged in the business of financial services activity if it undertakes an activity, which if carried out by an entity in India, requires registration with or is regulated by a financial sector regulator in India.		

Foreign Exchange Management (Overseas Investment) Rules, 2022 / Regulations, 2022 / Directions, 2022

Overseas Portfolio Investment (OPI) by Indian Entity in IFSC

- Indian entity may make OPI which shall not exceed fifty percent of its net worth as on the date of its last audited balance sheet
- A listed Indian company may make OPI including by way of reinvestment
- An unlisted Indian entity may make OPI only under following situations:
 - acquisition of equity capital by way of rights issue or allotment of bonus shares
 - capitalisation, within the time period, if any, specified for realisation under the Act, of any amount due towards the Indian entity from the foreign entity, the remittance of which is permitted under the Act or does not require prior permission of the Central Government or the Reserve Bank under the Act or any rules or regulations made or directions issued thereunder
 - the swap of securities
 - merger, demerger, amalgamation or any scheme of arrangement as per the applicable laws in India or laws of the host country or the host jurisdiction, as the case may be.
- A person resident in India may make contribution to an investment fund or vehicle set up in an IFSC as OPI.

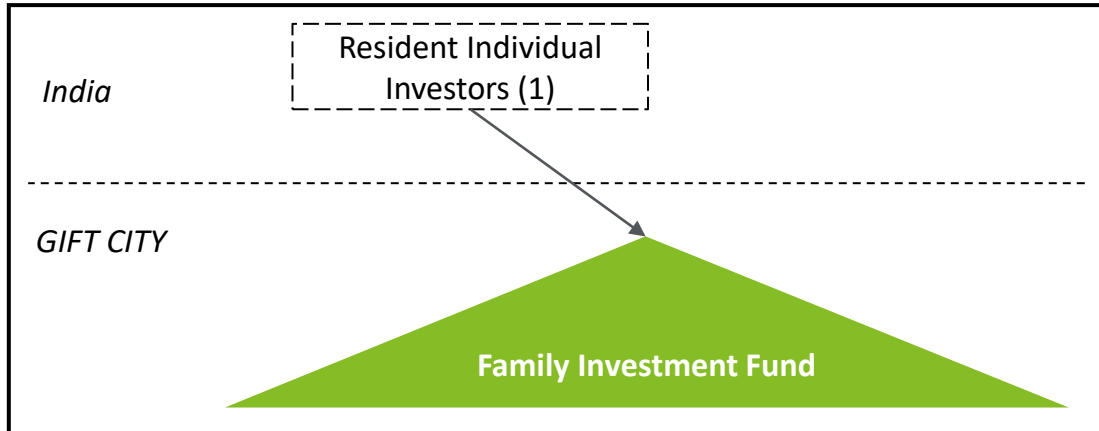
Overseas Investment by Resident Individual in IFSC

- A resident Individual in India may make contribution to an investment fund or vehicle set up in an IFSC as OPI subject to the overall ceiling under the Liberalised Remittance Scheme of the Reserve Bank.
- A resident individual in India may make contribution as ODI in a foreign entity subject to the overall ceiling under the Liberalised Remittance Scheme of the Reserve Bank, including an entity engaged in financial services activity, (except in banking and insurance), in IFSC if such entity does not have subsidiary or step down subsidiary outside IFSC where the resident individual has control in the foreign entity.

Overseas Investment (OI) by Mutual Funds or Venture Capital Funds or Alternative Investment Funds in IFSC

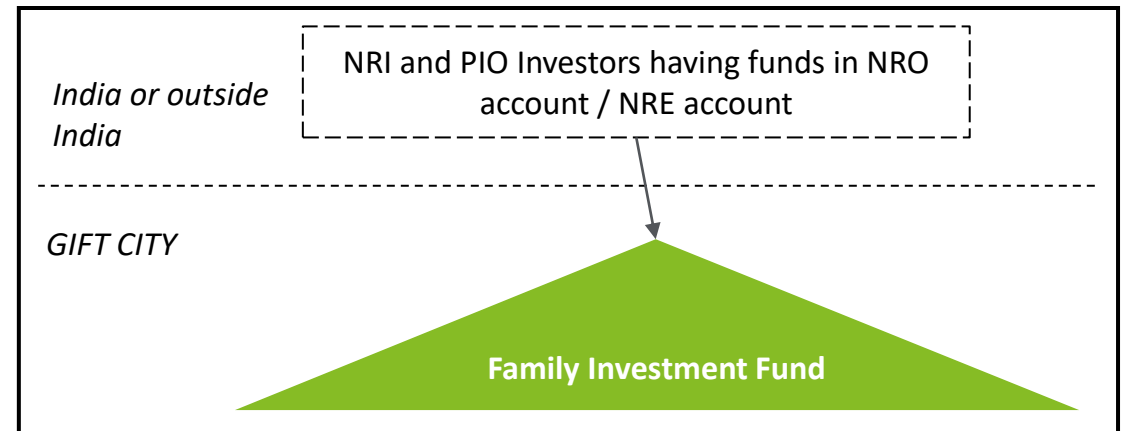
- Any investment by mutual funds, Venture Capital Funds and Alternative Investment Funds shall be treated as OPI subject to such other terms and conditions as may be laid down by the Reserve Bank and the SEBI under applicable laws from time to time
- Investment in overseas securities by AIFs be within the overall cap of USD 1.5 billion as stipulated by SEBI

Family Investment Fund (FIF) – Structure 1



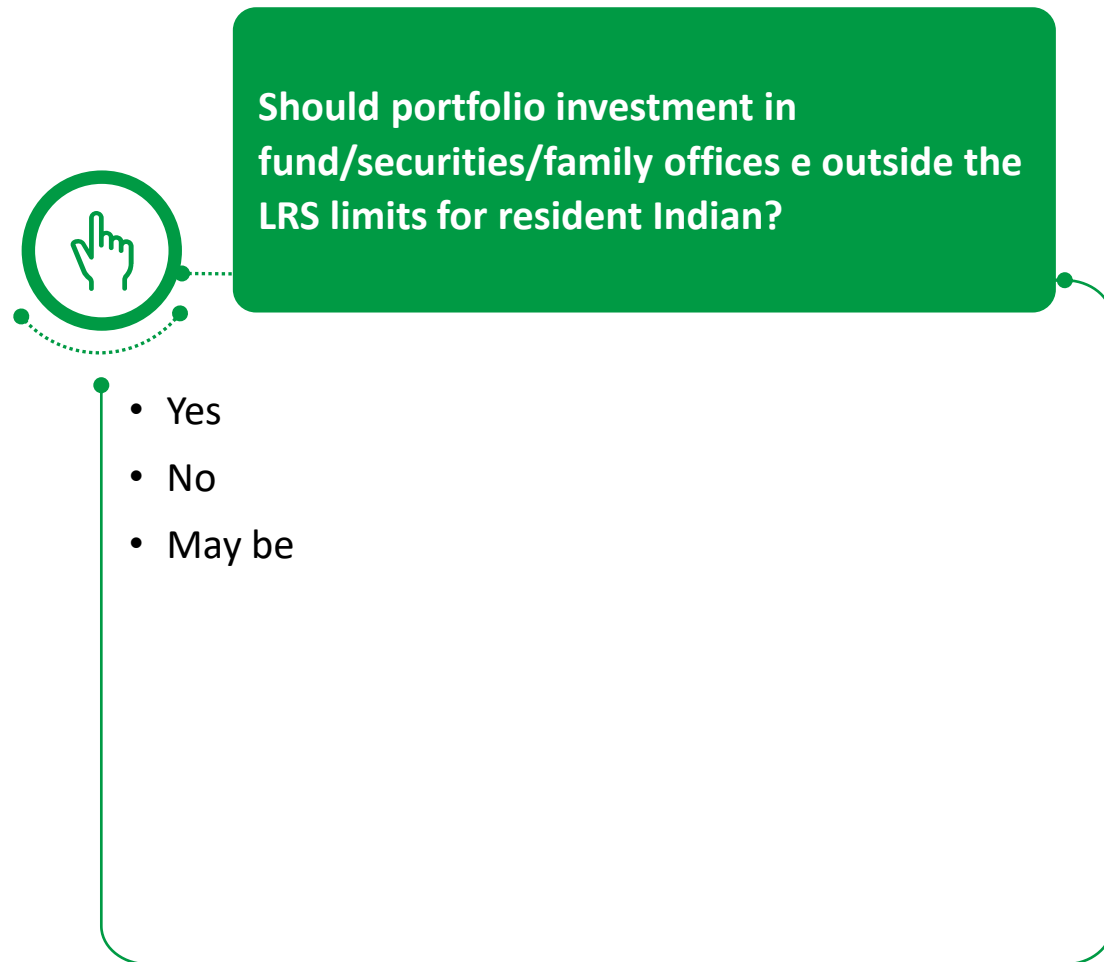
- Remittance upto USD 2,50,000 in aggregate allowed per financial year as per Master Directions – Liberalised Remittance Scheme (LRS) to Resident Individual
- A resident Individual in India may make contribution to an investment fund or vehicle set up in an IFSC as OPI (Schedule V).
- A resident individual in India may make contribution as ODI in a foreign entity, including an entity engaged in financial services activity, (except in banking and insurance), in IFSC if such entity does not have subsidiary or step down subsidiary outside IFSC where the resident individual has control in the foreign entity (Schedule V).
- Points for consideration:
 - Minimum corpus should USD 10 million in three years
 - TCS on LRS at the rate of 20%
 - Investment to fall under OPI / ODI

Family Investment Fund (FIF) – Structure 2



- Remittance of USD 1 million allowed per financial year as per Foreign Exchange Management (Remittance of Assets) Regulations, 2016 from NRO account.
- Investments by NRI and PIO from outside India or from NRE account into FIF in IFSC, should be outside the purview of OI Rules and Regulations.
- No other regulatory approvals for investments from outside India in FIF by non-residents except IFSCA
- FIF eligible to register as Category I - FPI in India and invest in India subject to limits as per the SEBI (FPI) regulations (single investment upto 25% in the Fund and aggregate of upto 50% in the Fund). Consultative Paper for increase in such limits for NRI in IFSC Fund.

Pre-Webinar Polling question - 2

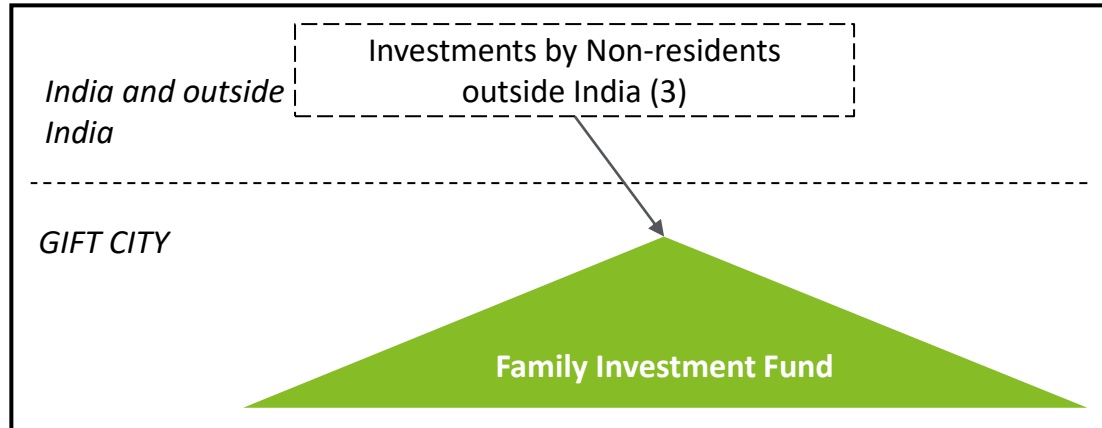
A green rounded rectangle contains the question text. To its left is a circular icon with a hand cursor. A dotted line connects the icon to the question box. A solid green line extends from the bottom of the question box to a list of options.

Should portfolio investment in fund/securities/family offices be outside the LRS limits for resident Indian?

- Yes
- No
- May be

- Results: 1315 votes:
- Yes 67%
- No 20%
- May be 13%

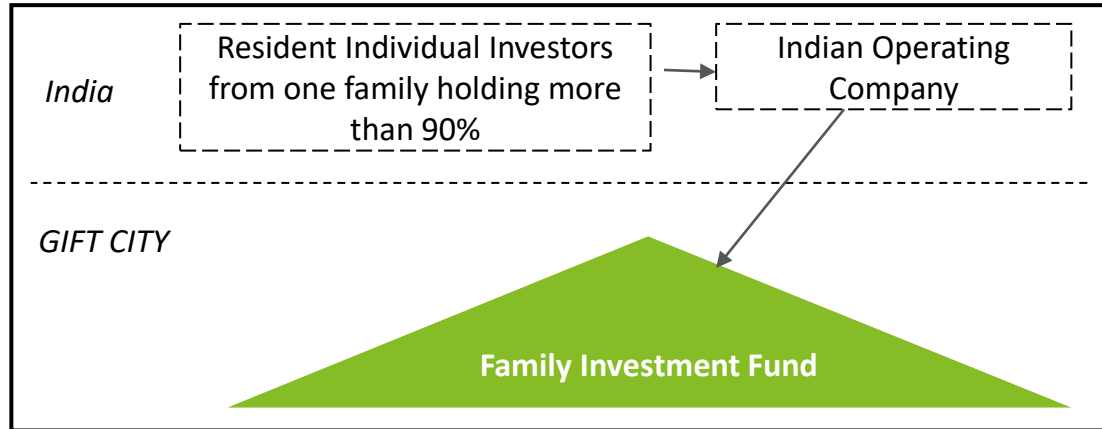
Family Investment Fund (FIF) – Structure 3



- Points for consideration:
 - Whether to invest directly into India as FPI or through GIFT IFSC as FIF

- No regulatory approvals for investments from outside India in FIF by non-residents except IFSCA.
- Investments can be in India and outside India
- Eligible to register as Category I - FPI in India and invest in India subject to SEBI (FPI) Regulations, 2019
- Taxation of FIF – whether eligible for deduction under section 80LA
- Taxation of investors in the FIF

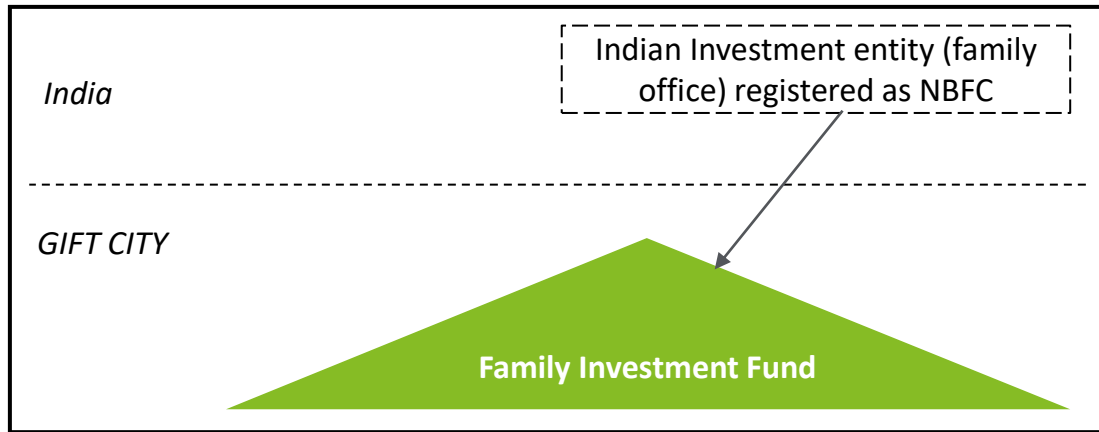
Family Investment Fund (FIF) – Structure 4



- Points for consideration:
 - Minimum corpus should USD 10 million in three years
 - Investment to fall under OPI / ODI

- Indian Operating Company - Not engaged in Financial Services activity.
 - Investment as OPI – Investment by Indian entity in FIF capped at 50% of net worth as on the date of its last audited balance sheet allowed.
 - Investment as ODI –
 - In Entity engaged in Financial Services activity except banking or insurance – whether RBI approval required
 - Indian entity has posted net profits during the preceding three financial years. Condition of three-year profitability dispensed with for ODI in a foreign entity in IFSC in India.

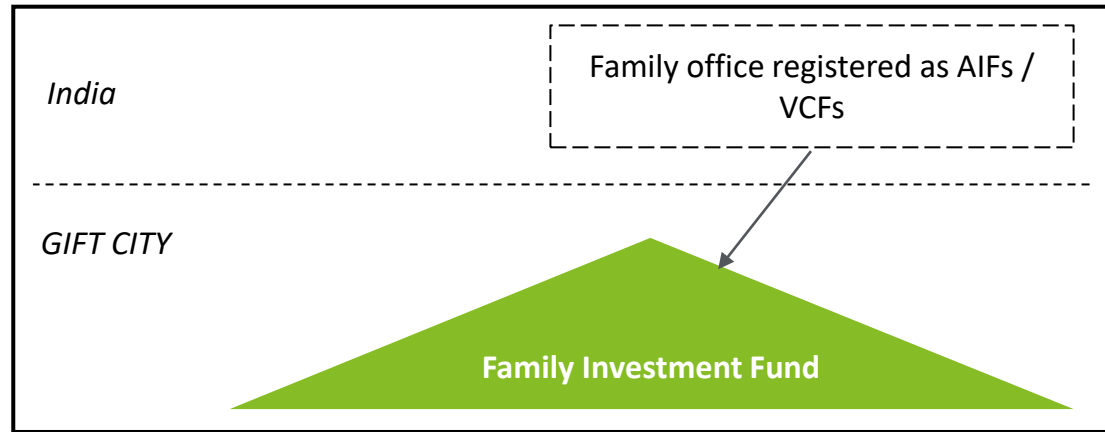
Family Investment Fund (FIF) – Structure 5



- Points for consideration:
 - Minimum corpus should USD 10 million in three years
 - Investment to fall under OPI / ODI

- Investment Holding entity – having more than 50% of the total assets as financial assets and income from financial assets constitute more than 50 per cent of the gross income – Indian entity registered as NBFC
- Investment by NBFC should be either OPI or ODI
 - Investment as OPI – Investment by Indian entity in FIF capped at 50% of the net worth as on the date of its last audited balance sheet allowed. (whether RBI approval required)
 - Investment as ODI - the Indian entity has posted net profits during the preceding three financial years
 - the Indian entity is registered with or regulated by a financial services regulator in India
 - the Indian entity has obtained approval as may be required from the regulators of such financial services activity, both in India and the host jurisdiction, as the case may be, for engaging in such financial services.
 - Further where the requisite approval by the financial services regulator concerned shall be decided within 45 days from the date of receipt of application complete in all respects failing which it shall be deemed to be approved.
- Other conditions for investments by NBFC as per Master Circular – Opening of Branch/Subsidiary/Joint Venture/ Representative office or Undertaking Investment Abroad by NBFCs – Investment in non-financial service sectors shall not be permitted. Direct investment in activities prohibited under FEMA or in sectoral funds will not be permitted. Investments will be permitted only in those entities having their core activity regulated by a financial sector regulator in the host jurisdiction. The aggregate overseas investment should not exceed 100% of the net owned funds. The overseas investment in a single entity, including its step down subsidiaries, by way of equity or fund based commitment shall not be more than 15% of the NBFC's owned funds. Overseas investment should not involve multi layered, cross jurisdictional structures and at most only a single intermediate holding entity shall be permitted. Other conditions as mentioned in the Circular.

Family Investment Fund (FIF) – Structure 6



- Points for consideration:
 - Minimum corpus should USD 10 million in three years
 - Investment to fall under OPI / ODI

- As per OI Rules, Investments by AIFs / VCFs in IFSC FIF should be OPI.
- Investment as OPI – Investment by Indian entity in FIF capped at 50% of the net worth as on the date of its last audited balance sheet allowed.
- As per Master Direction - Exemptions from the provisions of RBI Act, 1934 (Updated as on April 01, 2022), AIFs are exempted from registering as NBFC.
- As per SEBI Guidelines for overseas investment by Alternative Investment Funds (AIFs) / Venture Capital Funds, AIFs are allowed for investments in overseas jurisdictions subject to certain conditions and approvals.
- Investments shall not exceed 25% of the investable funds of the scheme of the AIF.
- AIFs shall file an application to SEBI for allocation of overseas investment limit in the format specified. Overall limit is capped at USD 1.5 billion.

Polling question



Do you expect large outflow of funds from India under the OPI regulations?

- Yes
- No
- May be



Family Investment Fund – Tax benefits

Tax Benefits

- 100% tax holiday under section 80LA for any ten consecutive assessment years out of fifteen years, beginning with the assessment year relevant to the previous year in which the permission is obtained under relevant law. Whether FIF eligible for section 80LA deduction?
- Reduced MAT rate @9% (plus applicable surcharge and cess) in case of unit located in IFSC which derives income solely in convertible foreign exchange.
- Units in IFSC (being domestic companies) can opt for concessional tax regime under section 115BAA and also take deduction under section 80LA of the Act. If the unit in IFSC opts for concessional tax regime, MAT provisions arguable as not applicable.
- TCS should be applicable on remittances under LRS.
- Income arising from investments in India as an FPI whether taxable as per the section 115AD?

Thank you!

Kindly spare a minute to help us with your feedback for today's session...

For any queries, please feel free to write to us at intax@deloitte.com



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