Annex X

Instructions on Investments in Alternative Investment Funds (AIFs)

(as contained in circulars dated December 19, 2023, and March 27, 2024, which otherwise stand repealed as on the effective date in terms of paragraph 36 of these Directions)

(refer paragraphs 35-38 of these Directions)

1. In order to address concerns relating to possible evergreening through the route of Alternative Investment Funds, it is advised that:

(1) A bank shall not make investments in any scheme of AIFs which has downstream investments either directly or indirectly in a debtor company of the bank.

Note: Downstream investments shall exclude investments in equity shares of the debtor company of the bank, but shall include all other investments, including investment in hybrid instruments.

Explanation: The debtor company of the bank, for this purpose, shall mean any company to which the bank currently has or previously had a loan or investment exposure anytime during the preceding 12 months.

(2) If an AIF scheme, in which a bank is already an investor, makes a downstream investment in any such debtor company, then the bank shall liquidate its investment in the scheme within 30 days from the date of such downstream investment by the AIF. If the bank has already invested into such schemes having downstream investment in their debtor companies as on date i.e. December 19, 2023, the 30-day period for liquidation shall be counted from December 19, 2023. The bank shall forthwith arrange to advise the AIFs suitably in the matter.

(3) In case a bank is not able to liquidate its investments within the above-prescribed time limit, it shall make 100 percent provision on such investments.

Note: Provisioning shall be required only to the extent of investment by the bank in the AIF scheme which is further invested by the AIF in the debtor company, and not on the entire investment of the bank in the AIF scheme.

2. In addition, investment by a bank in the subordinated units of any AIF scheme with a 'priority distribution model' shall be subject to full deduction from the bank's capital funds. Herein,

(1) the proposed deduction from capital shall take place equally from both Tier-1 and Tier-2 capital; and

(2) reference to investment in subordinated units of AIF Scheme includes all forms of subordinated exposures, including investment in the nature of sponsor units.

Note: The paragraph 2 above shall only be applicable in cases where the AIF does not have any downstream investment in a debtor company of the bank. If the bank has investment in subordinated units of an AIF scheme, which also has downstream exposure to the debtor company, then the bank shall be required to comply with paragraph 1 of this Annex.

Explanation: 'Priority distribution model' shall have the same meaning as specified in the SEBI circular SEBI/HO/AFD-1/PoD/P/CIR/2022/157 dated November 23, 2022.

3. Investments by a bank in AIFs through intermediaries such as fund of funds or mutual funds are not included in the scope of this Annex.