

MEMO# 32371

April 8, 2020

India: SEBI Amends FPI Regulations with Indirect Transfer Tax Implications

[32371]

April 8, 2020 TO: ICI Members

ICI Global Members

ICI Global Investing Subcommittee

ICI Global Regulated Funds Committee

ICI Global Tax Committee

Management Company Tax Subcommittee

Tax Committee SUBJECTS: Alternative Investments

Fund Accounting & Financial Reporting

International/Global

Tax RE: India: SEBI Amends FPI Regulations with Indirect Transfer Tax Implications

The Securities Exchange Board of India (SEBI) amended the Foreign Portfolio Investor (FPI) Regulations 2019 to broaden the types of investment funds that the Indian Government may notify as Category 1 FPIs. Appropriately regulated funds^[1] based in non-Financial Account Task Force (FATF) countries, such as Mauritius, are eligible for notification by the Indian Government by way of an order, agreement or treaty executed between India and the foreign country.

Consequently, investors in funds that qualify as Category 1 under the amended FPI regulations, and which derive more than fifty percent of their value from Indian assets, would not be subject to the indirect transfer tax provisions. This relief follows an ICI Global submission requesting that the Indian indirect transfer provision be applied only to abusive situations in which a controlling interest in a non-Indian intermediary company is transferred to avoid Indian tax.^[2]

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[Attachment](#)

endnotes

[1] Also eligible are: 1) unregulated funds whose investment manager is appropriately regulated and registered as a Category 1 FPI and 2) University related endowments that have been in existence for more than 5 years.

[2] See Institute [Memorandum No. 32255](#), dated March 2, 2020.

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