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Secondaries & Continuation Funds

1. The Liquidity Problem in Indian Private Equity (“PE”) space

Private equity funds operate as pooled investment vehicles with typical lifespans of 10 to 12 years, where limited partners (“LPs”) commit capital upfront for deployment by the general partner (“GP”). GPs deploy this committed capital over an investment period, actively manage portfolio companies during the subsequent value-creation phase, and pursue monetization through exits. This structure does not afford the LPs the flexibility to exit prior to the fund’s scheduled maturity without taking a haircut on their invested capital and/or returns.

Further, India’s PE sector faces a deepening liquidity crisis, evidenced by sharply declining exit volumes and prolonged holding periods for investments. In calendar year 2025 exits declined ~19% in deal count and ~18% in value compared to calendar year 2024.¹

The decrease in primary exits, such as Initial Public Offerings and Mergers and Acquisitions, is further locking the capital in maturing funds, compelling GPs to turn to secondary markets for vital liquidity solutions like LP-led secondary sales and GP-led continuation vehicles (“CV”) to meet LP distribution demands and retain high-quality assets.²

2. Demystifying Secondary Transactions

2.1. LP led secondary transactions

In an LP-led secondary transaction, an LP opts to sell its investment in one or more private equity funds prior to their scheduled maturity to other investors. These are bilateral deals, requiring prior GP consent and the buyers will assume all rights and obligations of the selling LP, including any outstanding capital commitments.

Illustration 1: LP-Led Secondary

SETUP:

Fund: ABC Growth Fund II is a Category II AIF established in 2017 with a 10-year life.

LP: A domestic insurance company committed Rs. 200 crores to ABC Growth Fund II.

SITUATION:

The LP faces regulatory capital adequacy pressure and needs to reduce illiquid private equity exposure. It approaches a secondary fund to sell its entire interest in Fund II.

TRANSACTION:

Secondary buyer TRC agrees to buy the LP’s position in ABC Growth Fund II.

OUTCOME:

LP: Receives the money and exits the fund.

TRC: Pays the money and steps in as the new LP; funds future capital calls and receives all future distributions from Fund II’s exits

¹ Venture Intelligence Data on PE-VC Exits

² <https://unlistedintel.com/blogs/secondaries-redefine-exits-in-indias-private-markets/>

GP: No change to fund; simply replaces one LP with another

2.2. GP led secondary transactions and continuation vehicles

In a GP-led secondary transaction, the GP proactively initiates and structures the deal, typically by transferring one or more portfolio assets from the existing fund (where the fund has a single scheme) or existing scheme (amongst other schemes of a fund) (“**Selling Fund**”) into a new vehicle, such as a CV, under the same GP’s management and control. The asset sale to this new entity (i.e., the CV) is financed by capital commitments from the CV’s investors, which may include fresh secondary buyers alongside existing LPs opting to “roll over” their interests from the Selling Fund to the new CV. The proceeds from the transfer follow the agreed waterfall provisions in the fund documents and will be first used to settle outstanding fund expenses and liabilities before distributions to LPs (who choose to exit the Selling Fund).

CVs generally follow two structures: a single-asset model (such as ChrysCapital’s NSE deal), or a multi-asset portfolio. An example of the latter is the Multiples Alternate Asset Management, which bundled Vastu Housing Finance, APAC Financial Services, and Quantiphi into a single CV.³

ILLUSTRATION:

Single-Asset Continuation Vehicle	Multi-Asset Continuation Vehicle
SETUP	
<p><u>Fund:</u> XYZ Capital Fund III (Category II AIF, vintage 2015, now in Year 10)</p> <p><u>Asset:</u> A leading fintech company, ZZZPay in which Fund III holds a 22% stake presently valued at Rs. 1,800 crore on Fund III’s books.</p> <p><u>Situation:</u> ZZZPay’s IPO is expected in 18–24 months; however, as Fund III approaches the end of its term, it must be wound down prior to the IPO.</p>	<p><u>Fund:</u> Alpha Growth Partners Fund II (Category II AIF, vintage 2016, now in Year 10).</p> <p><u>Assets:</u> A diversified portfolio of three high-performing “trophy” assets:</p> <ol style="list-style-type: none"> 1. LogiLink: A tech-enabled logistics firm (15% stake, valued at Rs. 700 crore). 2. HealthSphere: A chain of digital clinics (20% stake, valued at Rs. 900 crore). 3. EcoWatt: A renewable energy platform (12% stake, valued at Rs. 600 crore). <p><u>Total Portfolio Value:</u> Rs. 2,200 crore on Fund II’s books.</p> <p><u>Situation:</u> While these assets are entering their high-growth phase, Fund II has reached the end of its 10-year legal life. The GP believes these companies need another 3–4 years to reach full maturity for a premium exit.</p>
PROBLEM	
<p><u>Missing the Premium:</u> If GP sells ZZZPay today, it captures value but misses the IPO premium.</p> <p><u>LP Divergence:</u> Existing LPs are locked in and want liquidity now.</p>	<p><u>Forced Liquidation:</u> If the GP sells the portfolio today to close the fund, they face “fire-sale” pricing or must sell to competitors, losing out on significant future compounding.</p> <p><u>LP Divergence:</u> Some Limited Partners (LPs) are under pressure to return capital to their own stakeholders, while others want to remain invested in these specific winners.</p>

³https://www.business-standard.com/companies/news/multiples-closes-430-million-continuation-fund-india-secondary-deal-125052700743_1.html

Single-Asset Continuation Vehicle	Multi-Asset Continuation Vehicle
SOLUTION-CONTINUATION VEHICLE	
<p><u>Step 1:</u> GP creates XYZ Capital CV-I, a new AIF specifically designed to hold this asset</p> <p><u>Step 2:</u> CV-I acquires the ZZZPay's stake from Fund III for Rs. 1,800 crore</p> <p><u>Step 3:</u> Existing Fund III LPs are offered a choice.</p> <ol style="list-style-type: none"> a. CASH OUT: Receive proportionate proceeds from the CV-I acquisition OR b. ROLL OVER: Move their interest from Fund III into CV-I at the same valuation <p><u>Step 4:</u> Fresh secondary investors (e.g., Hamilton Lane, HarbourVest etc.) invest in CV-I to fund the acquisition and provide fresh capital.</p>	<p><u>Step 1:</u> The GP creates Alpha Continuation Fund I (ACF-I), a new vehicle specifically designed to hold these three assets.</p> <p><u>Step 2:</u> ACF-I acquires the stakes in LogiLink, HealthSphere, and EcoWatt from Fund II for Rs. 2,200 crore.</p> <p><u>Step 3:</u> Existing Fund II LPs are offered the "Status Quo" choice:</p> <ol style="list-style-type: none"> a. CASH OUT: Receive their share of the Rs. 2,200 crore immediately. OR b. ROLL OVER: Transfer their interest into ACF-I to maintain exposure to the 3 assets with a reset timeline. <p><u>Step 4:</u> New secondary investors anchor the vehicle, providing the liquidity necessary to pay out the "Cashing Out" LPs and providing fresh follow-on capital.</p>
OUTCOME	
<p><u>LPs who cash out:</u> Receive liquidity after 10 years of holding period</p> <p><u>LPs who roll over:</u> Continue holding through to the IPO</p> <p><u>New secondary investors:</u> Buy into a known, de-risked asset at an agreed valuation</p> <p><u>GP:</u> Retains management of their best-performing companies, aligns with long-term LPs, and earns a "carry" on the future appreciation of the assets.</p>	<p><u>Cashing Out LPs:</u> Achieve a clean exit and immediate liquidity after a 10-year holding period.</p> <p><u>Rolling LPs:</u> Continue to ride the upside of assets they already know and trust.</p> <p><u>New Secondary Investors:</u> Gain immediate access to a diversified, de-risked portfolio of "validated" assets rather than investing in a blind pool.</p> <p><u>GP:</u> Retains management of their best-performing companies, aligns with long-term LPs, and earns a "carry" on the future appreciation of the assets.</p>

3. India's Secondary Market — State of Play:

India's secondary PE market is currently experiencing rapid expansion. This accelerated growth is propelled by three primary structural drivers.

Firstly, there is a substantial overhang of aging, unrealized PE and venture capital investments accumulated during years of record capital deployment. This local backlog mirrors a broader macroeconomic trend that drove the global secondary market to a record USD 240 billion in total transaction volume in 2025, a 48% year-over-year increase.⁴ Secondly, India's exceptionally robust public market environment has established clear valuation benchmarks.

⁴ <https://www.jefferies.com/insights/the-big-picture/2025-global-secondary-market-review-another-record-breaking-year/>

Finally, secondary transactions are no longer viewed as distress valves. Instead, Indian fund managers are proactively launching complex CVs to retain and compound value in high-performing assets. India now ranks second among other emerging markets for GP-led transactions, accounting for 21% of completed CVs by number between 2020 and H1-2025.⁵

Key Active Secondary Funds and Continuation Vehicles operating in India:

Sr. No.	Secondary Funds and Continuation Vehicles
1.	Eastgate Secondaries Fund
2.	Ambit Arcadia Secondaries Fund
3.	Neo Secondaries Fund
4.	360 One Secondaries Fund
5.	White Whale Secondaries Fund
6.	PixelSky Capital Secondaries Fund
8.	Sauce Continuity Fund I
9.	Kedaara Continuation Fund
10.	Multiples PE Continuation Fund
11.	ChrysCapital Continuation Fund
12.	Samara Continuation Fund

4. Precedent for GP-led secondaries in India - ChrysCapital Continuation Fund

Fund Name	ChrysCapital Continuation Fund
Deal Type	Single-Asset GP-Led Continuation Vehicle
Fund Closing Date	30 April 2024
Size	USD 700 million (oversubscribed)
GP / Manager	ChrysCapital (India's largest domestic PE firm)
Asset	~3.93% stake in National Stock Exchange of India Ltd. (NSE)
Selling Fund	ChrysCapital Fund VI - through its affiliate entity Veracity Investments Limited (initial investment in NSE was in July 2016)
Limited Partners	HarbourVest Partners, LGT Capital Partners, Pantheon Ventures - amongst others
Significance	Largest single-asset CV in India; among the largest in Asia-Pacific

In April 2024, ChrysCapital established India's largest single-asset CV by raising \$700 million to acquire its ~3.93% stake in the National Stock Exchange ("NSE") from ChrysCapital Fund VI which had originally invested in NSE in July 2016.⁶ Anchored by HarbourVest Partners, LGT Capital Partners, and Pantheon Ventures, the transaction delivered Fund VI LPs a 6x multiple while enabling ChrysCapital to

⁵ <https://www.secondariesinvestor.com/india-gp-led-growth-buoyed-by-strong-public-markets-foreign-interest/>

⁶ <https://www.vccircle.com/chryscapitalraises-700-mn-to-keep-nse-stake-return-capital-to-sixth-fund-s-lps>

retain long-term exposure to NSE.⁷ By September 2025, the CV stake appreciated to ~USD 2 billion (~3x unrealized return in 18 months).⁸

The success of this landmark transaction was underpinned by several structural and asset-specific value drivers. Central to the deal was the underlying asset itself: NSE operates as a near-monopoly exchange featuring high barriers to entry, robust financials and a near-certain IPO narrative. This exceptional asset quality and IPO optionality drove intense investor appetite, allowing secondary buyers to underwrite the transaction at or near Net Asset Value (“NAV”) with minimal to no discount. Furthermore, strong GP alignment was maintained as ChrysCapital retained management control over the investment, ensuring seamless continuity in the value-creation strategy. The CV provided a vital, clean exit option that facilitated the LP’s own distribution reporting and future fundraising efforts. Ultimately, these compelling dynamics culminated in the transaction being oversubscribed, serving as a powerful indicator of the deep secondary market demand for high-quality Indian assets.

Lessons from the ChrysCapital Deal for Indian PE:

- (a) Proved the template: India’s secondary market can support large, institutionally led CV transactions at scale.
- (b) Normalized CVs: Has made other Indian GPs comfortable with the CV structure, multiple CVs are now in the pipeline.
- (c) Asset quality premium: High-quality, near-IPO assets attract near-par (or zero discount) pricing in India secondaries, unlike stressed asset sales.
- (d) LP sophistication: Demonstrates that Indian LPs are willing and able to evaluate roll-over vs. cash-out decisions, a sign of market maturity.

5. Overview of Applicable Laws and Regulations

5.1. SEBI regulations:

Securities and Exchange Board of India (“SEBI”) regulates and governs the functioning of Alternative Investment Funds (“AIFs”) in India. AIFs are required to be registered in India in accordance with the SEBI (AIF) Regulations, 2012 (“AIF Regulations”). AIFs can be registered in one of the categories: Category I, Category II or Category III.

Secondary transactions in India almost exclusively involve Category II AIFs (private equity / venture capital funds) and, to a lesser extent, Category I AIFs (infrastructure / social venture funds). Following are key regulatory provisions governing the secondary transactions:

- (a) Registration Requirement: Given the absence of a specific AIF regulatory framework for CVs in India, any GP-led secondary implemented through a CV would require the vehicle to be constituted as a new fund and obtain a fresh AIF registration or establish a new scheme.
- (b) Diversification Norms: Regulation 15(1)(c) prohibits Category I and Category II AIFs from investing more than 25% of investable funds in a single investee company, whether directly or through units of another AIF. Large Value Funds are provided a relaxation, allowing them to invest up to 50% of their investable funds in a single investee company (doubling the standard limit).
- (c) Transfer of assets: A CV (registered either as a new fund or as a new scheme of the same fund) is typically managed or sponsored by the same Manager or Sponsor as the Selling Fund, or by an affiliate within the same group. In such cases, the transfer of assets from the Selling Fund to the CV, being an associate of the Selling Fund, would require the approval of at least 75% of investors by value of their investment. Regulation 15(1)(ea) of the AIF Regulations therefore remains a key regulatory hurdle for asset transfers between funds or schemes under common management. To further strengthen governance, any investor holding 50% or more of Selling Fund’s corpus who is also a buyer in the CV must be excluded from the voting process. This exclusion operates as a critical safeguard against conflicts of interest in GP-led secondary transactions.

⁷ [India’s landmark GP-led marks a 3x return within 18 months](#)

⁸ Id.

- (d) Continuation Vehicle as New Scheme: Where a CV is structured as a new scheme under an existing AIF's umbrella, instead of a new fund, such a scheme must have its own minimum corpus, its own PPM, and maintain segregated bank accounts and assets.
- (e) Conflict of Interest: SEBI places onerous obligations on GPs to manage conflicts where the same GP is on both sides of a GP-led secondary i.e., for the Selling Fund and the new CV. An independent LP Advisory Committee (LPAC) review and, ideally, an independent process adviser (investment bank), are market standards for GP-led deals.
- (f) Valuation: SEBI mandates that AIF investments be valued at fair value using standardized methodologies (per SEBI's valuation framework and the AIF industry association guidelines). The NAV at which a CV acquires assets from the Selling Fund must be defensible and independently verified.

5.2. Competition Commission of India ("CCI")

In the evolving landscape of secondary transactions, large-scale CV deals can often trigger technical merger control thresholds, potentially requiring notification to the CCI, even where ultimate control remains within the same sponsor group. A key precedent in this regard was set by the CCI in its 2025 order concerning the Kedaara II Continuation Fund ("**Kedaara CV**").

In this case, Kedaara Norfolk Holdings Limited and Kedaara Capital Fund II LLP (together, the "**Vintage Vehicles**"), both entities a part of Kedaara Group proposed to transfer their shareholdings in Lenskart Solutions Limited and Care Health Insurance Limited to the Kedaara CV as the Vintage Vehicles approached the end of their fund life.

The CCI exempted this transfer under Rule 3 of the Competition (Criteria of Exemption of Combinations) Rules, 2024 ("**Exemption Rules**") and held that such CV-led internal restructurings qualify for exemption under Rule 3 of the Exemption Rules, provided there is no change in control and no acquisition of new rights. By doing so, the CCI has carved out a valuable safe harbour for GP-led secondaries by utilizing a CV.

5.3. FEMA and Cross-Border Structuring

(a) The FEMA Pricing Imperative

Secondary transactions involving a foreign investor (either as buyer or seller) are governed by the Foreign Exchange Management Act, 1999 ("**FEMA**") and the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 ("**NDI Rules**"). Mandatory fair-value pricing rules under the NDI Rules are paramount. The key principle here is: a resident Indian selling shares/units to a non-resident cannot do so below the FEMA-determined fair value, and a non-resident selling to a resident cannot do so above that fair value. This is the 'floor-ceiling' mechanism.

- i. Implication for CV pricing: When a foreign-owned CV acquires assets from a domestic fund, or when foreign secondary buyers invest in a CV, the transaction price must be at or above (for sales by residents) the FEMA-prescribed fair value. If a secondary deal is struck at a 20% discount to book NAV, the parties must ensure this discount does not violate FEMA pricing i.e., the 'NAV' used must be the intrinsic FEMA-recognized fair value, not a stale book value.
- ii. Foreign-Owned and Controlled AIF: As per the NDI Rules, an AIF where the Sponsor or the Manager or the Investment Manager (*i*) is not owned and not controlled by resident Indian citizens or (*ii*) is owned or controlled by persons resident outside India, such AIF is classified as a 'foreign-owned and controlled' AIF. This classification is critical, it triggers FDI-route pricing and sectoral cap compliance for every portfolio investment by such AIF.
- iii. FEMA Reporting: Every cross-border investment into or out of an AIF must be reported to the RBI via the FIRMS portal within prescribed timelines (typically 30 days of allotment / transfer).

- iv. Press Note 3 / Land Border Rule (“PN3”): When an AIF with beneficial investors from land border sharing countries (covering China, Pakistan, Bangladesh, Nepal, Bhutan, Myanmar, and Afghanistan) (“LBC”) makes a downstream investment into an Indian portfolio company, that investment attracts PN3 scrutiny. The portfolio company receiving such investment is required to seek prior government approval, where required, if the AIF’s beneficial owner is traced back to an LBC entity.

(b) Gujarat International Finance Tec-City (“GIFT City”) as a structuring alternative

For international GPs and secondary investors, GIFT City (International Financial Services Centres - regulated (“GIFT IFSC”)) may offer meaningful advantages over onshore AIF structuring:

- i. Tax-neutral relocation: Transfers of interest from an existing foreign fund to a GIFT IFSC fund are not treated as taxable transfers for capital gains purposes. Correspondingly, any transfer by a shareholder, unit holder, or interest holder of a capital asset being a share, unit, or interest held in an existing foreign fund, in consideration for a share, unit, or interest in the GIFT IFSC resultant fund, is also not treated as a taxable transfer for capital gains purposes. The sunset for the above benefits have been extended to 31 March 2030.
- ii. Greater structural flexibility under IFSCA Fund Management Regulations 2025 (“IFSCA FM Regulations”) vs. AIF Regulations.
- iii. Example of a CV domiciled in GIFT IFSC: Kedaara II Continuation Fund

(c) Key FEMA Considerations in Structuring a CV in GIFT IFSC

- i. A CV established in GIFT IFSC is treated as a person resident outside India under FEMA. Accordingly, any transfer of assets by a transferring fund domiciled in mainland India to such a CV will constitute an outbound transfer attractable to FEMA, and the relevant overseas investment / outbound transfer compliances under FEMA, as set out at ii (a) above will need to be satisfied prior to or at the time of such transfer.
- ii. Similarly, where the transferring fund is itself established in GIFT IFSC and the CV is domiciled in mainland India, the transfer of assets from such fund to the CV (“IFSC CV”) will be treated as an inbound foreign investment into India, triggering the applicable FEMA compliances (including FDI / downstream investment regulations, as the case may be).
- iii. Further, any transfer of assets by a transferring fund domiciled outside India to an IFSC CV will be considered as transfer from a non-resident to another non-resident under the FEMA regulations, hence pricing constraints may not apply. However, the IFSC CV remains a tax resident of India under the Income Tax Act, and if the offshore fund and the IFSC CV are related parties, the transaction price shall satisfy arm’s length principles under the transfer pricing provisions of the Income Tax Act.

Relocation of Schemes from Foreign Jurisdictions to GIFT IFSC
(as of 31 December 2025)⁹

Schemes relocated	24 Schemes
Cumulative Commitments	USD 13.90 billion
Cumulative Funds Raised	USD 7.48 billion
Cumulative Investments	USD 8.18 billion

5.4. Income Tax Act

⁹ Brochure for Fund Management in GIFT-IFSC

Under Schedule V (Table: S. No. 1) read with Section 11 of the Income-tax Act, 2025 (“ITA 2025”) [erstwhile Section 10(23FBA) of the Income-tax Act, 1961 (“ITA 1961”)] and Section 224 of the ITA 2025 [erstwhile Section 115UB of the ITA 1961], Category I and II AIFs benefit from a “pass-through” tax status for most earnings. This framework ensures that non-business income remains tax-exempt at the fund level; instead, the tax liability passes directly to the investors, who are taxed on their proportional share in the year the income accrues. Conversely, any business income generated by the fund is taxed at the vehicle level at the maximum marginal rate where the fund is structured as a trust, or at the applicable company/LLP rate where it is incorporated as company / LLP. Once this tax is paid by the fund, the remaining business income is distributed to investors completely tax-free of further tax liability in their hands, as provided under Schedule V (Table: S. No. 2) read with Section 11 of the ITA 2025 [erstwhile Section 10(23FBB) of the ITA 1961].

Unlike Category I and II AIFs, Category III AIFs do not benefit from a statutory pass-through regime. All income earned by a Category III AIF, whether in the nature of capital gains, interest, dividends, or business income is taxed at the vehicle level, with the fund itself bearing the full tax liability before any distribution is made to investors. The applicable rate depends on the legal form of the fund:

- (a) where the AIF is constituted as an indeterminate trust, the trustee is assessed as a representative assessee and income is ordinarily chargeable at the maximum marginal rate (~42.74% under the prevailing surcharge regime for indeterminate trusts);
- (b) where the AIF is constituted as a determinate trust, the trustee is assessed as a representative assessee and each class of income is taxed at the rate applicable to each beneficiary's proportionate share, as if the income had accrued directly to them; provided that where such income includes profits and gains of business, the entire income is nevertheless charged at the maximum marginal rate;
- (c) where it is incorporated as a company or LLP, the applicable corporate or LLP tax rate applies instead.

Once the applicable tax has been discharged at the fund level, investors receive post-tax distributions and are not subject to any further tax liability in their hands on the same income.

5.4.1. Taxation of Secondary Transactions

Framework: Pass-Through vs. Entity-Level Taxation

The tax treatment of secondary transactions in India depends fundamentally on the AIF category and the nature of income:

Particulars	Domestic Fund to IFSC CV		Foreign Fund to IFSC CV	
	LP led secondary transactions	GP led secondary transactions and continuation vehicle	LP led secondary transactions	GP led secondary transactions and continuation vehicle
What is transferred	LP units only	Portfolio assets along with unit exchange	LP interests only	Portfolio assets along with unit exchange
Exemption under the ITA 2025*	Not Applicable	Not Applicable in case of a domestic fund	Not Applicable	Tax neutral transaction, subject to certain conditions
Fund-level tax	None. No fund-level event.	For a Category I or II AIF: <ul style="list-style-type: none"> - Gains on securities are treated as capital gains 	None. No fund-level event.	No capital gains tax arises at the fund level on the asset transfer. [Exempt under Section 70(1)(t) of the ITA

Particulars	Domestic Fund to IFSC CV		Foreign Fund to IFSC CV	
		<p>under the pass-through regime and are deemed to accrue to investors under Section 224 of the ITA 2025 [erstwhile Section 115UB of the ITA 1961];</p> <ul style="list-style-type: none"> - Gains of a business income character are taxed at the fund level at the applicable rate. <p>For a Category III AIF:</p> <ul style="list-style-type: none"> - Tax is paid at AIF level and investors are exempt from tax; - Capital gains from equity shares of Indian company are taxable at domestic tax rates; - Capital gains from derivatives, bonds, debentures and all securities other than equity shares of Indian company are taxable at tax rates ranging from 12.5% to 30% plus applicable surcharge and cess. 		<p>2025 (erstwhile Section 47(viiac) of the ITA 1961)]</p>
LP-level tax	<p>Capital gains arise in the hands of the LP on transfer of its units in the domestic AIF (Refer Capital Gains Taxation – below).</p>	<ul style="list-style-type: none"> - Capital gains on the unit exchange component are a taxable event for rolling LPs and will be taxed at applicable rates in the hands of the LP. - For a Category I or II AIF, capital gains on the portfolio asset transfer pass through to investors in proportion to their 	<p>Capital gains arise in the hands of the LP on transfer of its interest in the foreign fund.</p> <p>However, analysis of indirect transfer provisions would have to be done to determine taxability. Double Taxation</p>	<p>No capital gains tax arises in the hands of investors at the time of the exchange. [Exempt under Section 70(1)(u) of the ITA 2025 (erstwhile Section 47(viiad) of the IT Act)]</p>

Particulars	Domestic Fund to IFSC CV		Foreign Fund to IFSC CV	
			holdings under Section 229 of the ITA 2025 [erstwhile Section 115UB of the ITA 1961], - For a Category III AIF , gains are taxed at the fund level and distributions to investors carry no further tax liability.	Avoidance Agreement (“DTAA”) relief may be available depending on the LP’s country of residence and the applicable treaty provisions.
Cost base continuity	No continuity.	No continuity.	No continuity.	Full continuity. The cost of acquisition of portfolio assets in the GIFT IFSC resultant fund, and of units of that fund in the hands of rolling investors, is deemed to be the cost to the previous owner, being the original foreign fund and the investor in the original fund respectively.
Holding period continuity	No continuity.	No continuity.	No continuity.	Full continuity. The holding period of portfolio assets in the GIFT IFSC resultant fund, and of units of that fund in the hands of rolling investors, is deemed to include the period for which those assets and interests were held in the original foreign fund.

* Section 70(1)(t) of the ITA 2025 (erstwhile Section 47(viiac) of the ITA 1961) [Fund-Level] and Section 70(1)(u) of the ITA 2025 (erstwhile Section 47(viiad) of the IT Act) [Investor-Level]

5.4.2. Capital Gains Taxation

- i. Capital Asset Classification (Budget 2025 / New ITA 2025): From AY 2026-27, securities held by Category I and II AIFs are statutorily defined as ‘capital assets’. This means gains from their sale will always be taxed as capital gains and not business income, eliminating a significant source of uncertainty that had created litigation risk for secondary transactions.
- ii. Long-Term Capital Gains (LTCG): For listed equity and equity-oriented assets, LTCG (held > 12 months) is taxed at 12.5% (post-Budget 2024) with a Rs. 1.25 lakh annual exemption. For unlisted securities, and units of Domestic AIFs (the more common case in PE secondaries), LTCG (held > 24 months) is also taxed at 12.5% without indexation.
- iii. Short-Term Capital Gains (STCG): Listed equity STCG (held < 12 months) is taxed at 20%. Unlisted STCG, and units of Domestic AIFs are taxed at the investor’s applicable slab rate.
- iv. Capital gains tax implications on transfer of units of foreign funds would depend on applicability of indirect transfer provisions and DTAA relief, if any, depending on the LP’s country of residence.

- v. Unlisted Debt Reclassification (Section 76 of the ITA 2025 [erstwhile Section 50AA of the ITA 1961], from July 23, 2024): All gains from sale of unlisted bonds and debentures are now treated as STCG, regardless of holding period. This is a significant change for credit funds and hybrid fund secondaries. SWFs and pension funds are exempted from this provision.

5.4.3. TDS Obligations (Section 393 of the ITA 2025 [erstwhile Section 194LBB of the ITA 1961])

Investor Type	TDS Rate on AIF Distributions
Resident Indian investors	10% TDS on income distributed by AIF
Non-resident / FII investors	TDS at rates applicable to the underlying income type (capital gains rate / interest rate etc.)
DTAA-eligible non-residents	Lower rate available with valid Tax Residency Certificate (TRC) and Form 10F
Sovereign Wealth Funds (SWFs)	Exempt from tax under Schedule V (Table: S. No. 7) read with Section 11 of the ITA 2025 [erstwhile Section 10(23FE) of the ITA 1961] on eligible infrastructure investments
Pension Funds	Similar Schedule V (Table: S. No. 7) read with Section 11 of the ITA 2025 [erstwhile Section 10(23FE) of the ITA 1961] exemption for eligible investments

5.4.4. Tax Due Diligence in a Secondary Transaction

A buyer acquiring an LP interest in a secondary deal must conduct tax due diligence covering:

- i. Vintage of underlying portfolio companies and likely gain characterization (STCG vs. LTCG);
- ii. Unresolved tax demands or notices at the fund level;
- iii. Whether any portfolio company has been subject to GAAR (General Anti-Avoidance Rule) proceedings;
- iv. Deferred tax liabilities embedded in the portfolio, especially for unlisted holdings carried at cost that have appreciated significantly;
- v. TDS credit position of the selling LP as unpaid TDS could create liability for the buyer in certain structures;
- vi. Transfer pricing compliance for any cross-border transactions within the portfolio.

5.4.5. Stamp Duty

Stamp duty on the transfer of LP interests varies by state and structure:

- i. Transfer of unlisted demat shares in an Indian company: 0.015% on the consideration amount
- ii. Transfer of unlisted demat AIF units: 0.015% on the consideration amount
- iii. Assignment of LP interest in a Trust-form AIF: The trust deed / deed of assignment may attract stamp duty at rates varying by state (in Maharashtra anywhere between: 0.1–3%; this is a live issue that requires state-level analysis).

6. Practical Challenges and Market Gaps

Despite growing momentum and landmark transactions such as ChrysCapital's NSE continuation vehicle, India's secondary and continuation fund market remains early-stage and operationally complex.

Structural frictions, only partly addressed in global markets are more pronounced in India due to fragmented LP bases, an evolving regulatory framework, and limited price discovery mechanisms. Although the AIF Regulations and FEMA provide a legal foundation, they were not designed for GP-led secondaries, leaving material interpretive and governance gaps. The following challenges therefore merit close attention from market participants and policymakers:

(a) Conflicts of Interest

In a GP-led secondary, the GP structurally sits on both sides of the transaction, as the fiduciary of the Selling Fund and simultaneously as the promoter of the acquiring CV, creating conflict.

- i. AIF Regulations mandate conflict management but prescribes no standardised safe harbour protocol specific to GP-led secondaries; the market currently relies on LPAC reviews and independent advisers as a best-effort mitigation, not a mandated framework.
- ii. There is no regulatory requirement in India (unlike the SEC's proposed rules in the U.S.) for GPs to engage a fully independent fairness opinion provider or to formally establish a "qualified independent reviewer" for CV transactions.
- iii. The risk of GP self-dealing is heightened in single-asset CVs, where the GP's carry economics in the new vehicle can be substantially restructured, potentially at the expense of legacy LPs who lack the information or leverage to negotiate.

(b) Pricing and Valuation Fairness

Valuation in a GP-led secondary is inherently asymmetric: the GP controls the information on the asset and has an economic interest in the pricing outcome, while LPs must make roll-over or cash-out decisions based on a NAV that the same GP has substantially influenced.

- i. SEBI's valuation framework mandates fair value using standardised methodologies, but there is no mandatory requirement for an independent third-party valuation specifically commissioned for the CV transfer, the fund's existing registered valuer report often serves a dual purpose.
- ii. In cross-border structures, the FEMA "floor-ceiling" pricing mechanism (under the NDI Rules) adds a second, sometimes conflicting layer of pricing discipline, the FEMA-recognized fair value may diverge from the secondary market's negotiated transfer price, particularly where the asset is illiquid or unlisted.
- iii. India lacks a secondary market pricing database or benchmarking infrastructure (comparable to Preqin or Greenhill's secondary pricing surveys globally), making it difficult for LPs to independently assess whether the offered NAV reflects genuine market discovery.

(c) LP Consent and Governance

Regulation 15(1)(ea) of the AIF Regulations establishes a 75%-by-value investor approval threshold for asset transfers to affiliates, which is a meaningful governance check, but its practical enforcement is constrained by the passive and fragmented nature of most Indian LP constituencies.

- i. The exclusion of any LP holding 50% or more of corpus who is also a buyer in the CV (designed to prevent conflicted voting) is a sound safeguard in principle, but it can create practical quorum and threshold-computation difficulties in funds with concentrated anchor investors.
- ii. Many Indian fund LP Agreements may not comprehensively specify the procedural mechanics for GP-led secondary consent, including notice periods, information rights for roll-over decision-making, or deemed consent provisions, leaving LPs without adequate contractual protection at the time of the transaction.
- iii. Smaller domestic LPs (family offices, HNIs) typically lack the legal and financial sophistication to independently evaluate roll-over vs. cash-out economics, creating an informational asymmetry that the market has not yet addressed through standardised disclosure norms.

(d) Regulatory Constraints

The AIF Regulations, having been designed for primary fund structures, impose several provisions that sit awkwardly with the mechanics of GP-led secondaries and CVs.

- i. The 25% single-investee diversification cap under Regulation 15(1)(c) significantly constrains the use of single-asset CVs for AIFs established in mainland India. Given that single-asset CVs are widely used globally for their commercial efficiency, where a CV is intended to house a single asset, incorporating such CV in GIFT IFSC or an offshore jurisdiction (subject to applicable legal and regulatory requirements) may be considered to mitigate this restriction.
- ii. The absence of a dedicated CV registration track under SEBI's AIF framework means every CV must be freshly registered as a new AIF, incurring duplicative compliance costs, minimum corpus requirements, and PPM preparation timelines, creating structural inefficiency that global markets operating under purpose-built GP-led secondary frameworks do not face.
- iii. GIFT IFSC domiciled CVs, while offering meaningful tax and structural advantages, attract full FEMA compliance on asset transfers to/from mainland India funds, and the regulatory treatment of such cross-border intra-group transfers remains an area of live interpretive uncertainty.

(e) Market Maturity and Infrastructure Gaps

India's secondary market, while growing rapidly, remains a thin and largely relationship-driven market, characterised by limited competitive tension in pricing and an absence of the institutional infrastructure that underpins mature secondary ecosystems in North America and Europe.

- i. The buyer universe is concentrated, a handful of dedicated secondary funds and global secondaries arms of funds-of-funds dominate deal flow, meaning GPs have limited ability to run competitive secondary processes that would yield genuine price discovery.
- ii. There may not be standardised secondary transaction documents, LP transfer templates, or market-accepted representation and warranty frameworks specific to Indian AIF secondary sales, leading to prolonged and bespoke negotiations that increase transaction costs and execution risk.
- iii. The LP base for Indian AIFs remains heavily domestic and institutional-light; the absence of large, sophisticated domestic LPs (comparable to U.S. pension funds or endowments) with active secondary portfolio management mandates limits the supply side of LP-led secondary transactions and suppresses market depth.

Contributors & Disclaimer

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