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A Significant Liberalisation Proposed: Easing the Path for Offshore Funds to Appoint Indian Fund Managers

5 August 2026

Indian tax law provides a 'safe harbour' for the offshore funds managed from India. Broadly, the fund management activities carried out by an eligible fund manager in India (Fund Manager) with respect to an eligible investment fund (Fund), does not result in such Fund constituting a taxable presence (business connection) in India or being treated as a tax resident in India.

However, this safe harbour is subject to various conditions, compliance with which is practically challenging for the offshore funds. To address these challenges, the Ministry of Finance, through the Taxation and Other Laws (Amendment) Bill, 2026 (Bill), has proposed significant relaxations to simplify the safe harbour regime by removing several stringent quantitative and structural conditions.

Proposed Amendment

The key conditions proposed to be amended by the Bill are set out in the table below:

Key conditions	Existing provision	Proposed amendment
Residential status	Fund should be a non-resident in India	**Retained**
Jurisdiction	Fund should be resident of / established in a treaty or notified jurisdiction	**Retained**
Participation by Indian resident	Direct participation by Indian residents should not exceed 5% of the corpus (carve-out for manager contributions up to INR 250 million during the first three years;)	**Retained**
Investor protection regulations	Fund and its activities should be subject to applicable investor protection regulations in the home jurisdiction	**Removed**
Minimum members	Fund should have a minimum of twenty-five members (who are not connected persons)	**Removed**
Single-member cap	No single member (together with connected persons) should hold more than 10% interest in the Fund	**Removed**
Aggregate concentration cap	Ten or fewer members (together with connected persons) should hold less than 50% interest in aggregate	**Removed**
Single-entity investment cap	Fund should not invest more than 25% of its corpus in any single entity	**Removed**
Associate investment	Fund should not invest in an associate entity	**Removed**

Key conditions	Existing provision	Proposed amendment
Minimum corpus	Monthly average corpus of the Fund should be at least INR 1 billion	**Removed**
No business in India	Fund should not undertake or control or manage any business in India	**Retained**
No other business connection	Fund should not carry out any other activity that may create a business connection in India	**Retained**
Manager remuneration	Fund should pay an arm's length remuneration to the Fund Manager, as prescribed	**Removed**

No amendment has been proposed with respect to the conditions applicable to the Fund Manager and therefore, it remains important to ensure that the Fund Manager is (a) registered as a fund manager or an investment advisor in India; (b) not an employee of the Fund or a connected person of the Fund; (c) rendering services in the ordinary course of business; and (d) not entitled to more than 20% of the profits accruing or arising to the Fund.

Impact Assessment

The proposed amendments signal a deliberate recalibration of India's fund manager regime — from a condition-laden framework to a leaner safe harbour resting on a single principle: that the Fund does not itself carry on any business in India.

By proposing to remove broad-based eligibility requirements (twenty-five members, 10% single-member cap, and 50% aggregate cap), minimum corpus requirement of INR 1 billion, diversification and associate-investment caps (25% single-entity cap and the associate-entity prohibition), the Bill addresses the very impediments that deterred offshore funds from onshoring their management functions.

Collectively, these changes would make the safe harbour substantially easier to access, reducing both structuring complexity and the compliance burden. The proposals shall be effective from 1 April 2026 once the Bill is passed in the Parliament and approved by the President of India.

- *Rahul Jain (Partner) and Vishakha Ranga (Associate)*

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