भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

Consultation Paper

Amendment of SEBI (Infrastructure Investment Trusts) Regulation, 2014 and SEBI (Real Estate Investment Trusts) Regulation, 2014

A. Objective

(1). To solicit comments/views from public on suggestions pertaining to making amendments to SEBI (Infrastructure Investment Trusts) Regulations, 2014 (hereinafter referred as "**InvIT Regulations**") and SEBI (Real Estate Investment Trusts) Regulations, 2014 (hereinafter referred as "**REIT Regulations**").

B. Background

(2). The InvIT and REIT Regulations were notified on September 26, 2014. Till date, 3 InvITs have issued and listed their units raising approximately Rs. 10,000 crores and 1 REIT is in the process of making a public offer.

(3). Based on experience gained and feedback received from market participants, amendments to the REIT and InvIT Regulations, as detailed below, are being proposed with a view to providing flexibility to the issuers in terms of fund raising and increasing the access of these investment vehicles to investors.

C. Proposals for amendments

(4). **Reduction in the minimum allotment and trading lot for publicly issued InvITs and REITs**

(a). **Current regulatory requirement**

i. InvIT

Regulation 14(4)(c) of the InvIT Regulations prescribes that the minimum subscription in an initial offer and a follow-on offer from any investor shall be Rs. 10 lakhs. Further, Regulation 16(9)(b) of the InvIT Regulations prescribes that the trading lot for the purposes of trading of publicly listed units, on the designated stock exchange, shall be Rs. 5 lakhs.

ii. <u>REIT</u>

Regulation 14(14) of the REIT Regulations provides that in the case of a REIT issue, the minimum subscription from any investor in an initial offer, as also in a follow-on public offer shall not be less than Rs. 2 lakhs. Further, as per Regulation 16(4) of the REIT regulations, the prescribed trading lot for the purpose of trading of units of the REIT on the designated stock exchange, is Rs. 1 lakh.

(b). **<u>Request for change</u>**

i. REITs and InvITs are considered as stable, income yielding investment vehicles. Representations have been received that the present investment limit for minimum subscription and trading in units of such vehicles, as given above, is quite high and not in consonance with the current requirements for investment in equity instruments.

ii. It has, therefore, been represented that in order to encourage participation of even retail investors, the minimum investment required for subscription and subsequent trading in units of REITs and InvITs, may be reduced to a lower threshold.

iii. SEBI's Working Group on REITs and InvITs also discussed on this aspect and recommended reduction in subscription and trading lot.

(c). **<u>Proposal</u>**

i. The minimum application and trading lot for publicly issued InvITs and REITs is proposed to be revised as follows:

a. At the time of initial/follow-on issue, the minimum application and allotment lot shall be of 100 units and the value of one such lot shall be within the range of Rs. 15,000 – Rs. 20,000.

b. Allotment shall be made in multiples of a lot.

c. After initial listing, a trading lot shall also be of 100 units.

ii. The trading lot for existing publicly issued and listed units shall be reduced by the Stock Exchange(s), as per para (4)(c)(i)(c) above, within a period of 6 months from the date of notification of the Regulations.

(5). **Increase in the leverage limit for InvITs**

(a). **Current Regulatory Requirement**

Regulation 20(2) of the InvIT Regulations provides that the aggregate consolidated borrowings and deferred payments of the InvIT net of cash and cash equivalents shall never exceed 49 % of the value of the InvIT assets. Further, as per Regulation 22(4)(b) of the InvIT Regulations, any borrowing exceeding 25% of the value of the InvIT assets requires unit holders' approval and mandatory credit rating.

(b). **Request for change**

It has been represented by various stakeholders that the limitation on InvITs to raise debt beyond 49 % adversely impacts the profitability of InvITs on account of the following:

i. Inability to offer incremental returns as compared to other alternative investment avenues: InvITs consist largely of operating infrastructure assets, which provide stable long-term cash flows and thus have the capacity to bear a significantly higher leverage than the currently prescribed limit, without adversely impacting the risk profile of the InvIT.

The optimal leverage based on the cash-flows of the projects could provide investors with the ability to enhance their returns on investment. In general, most operating infrastructure projects with good cash flows are leveraged between 70% to 80% of the value of the assets. However, the current limitation on leverage restricts the InvITs to offer incremental or similar return as compared to other alternative investment avenues with similar assets.

ii. Restricting the availment of additional capital for funding acquisition: The limitation on leverage also puts restriction on the InvITs' ability to acquire new assets for growth. This leads to InvITs not being able to compete for acquisition of additional assets towards such growth, which, apart from stable yield, is one of the core value propositions for investing in InvITs.

Also, with a consolidated debt limit of 49%, further acquisition of assets is heavily dependent upon primary issuance of units, thereby resulting in frequent dilution of existing investors, which reduces the attractiveness of investment in units of InvITs for many investors, especially those with long term investment objectives.

iii. The aspect of increasing limit on leverage was discussed and recommended by the SEBI's Working Group on REITs and InvITs.

(c). **Proposal**

i. It is proposed that the leverage limit for InvITs be increased from existing 49% to 70% in the following manner -

Limit of aggregate consolidated borrowings of the InvITs, holdco and the SPV(s), net of cash and cash equivalents	**Approval of unit holders**	**Credit rating**	**Track record/Distribution record**
Exceeds 49% - till maximum of 70%	Approval of 75% of unit holders who are not related.	Credit rating of consolidated debt and project debt to be AAA or equivalent from a rating agency registered with the Board.	Minimum track record of atleast 3 years of continuous distribution post listing.

ii. The enhanced debt limit from 49% to 70% shall be available specifically for acquisition of new infrastructure assets.

iii. Disclosure requirements: Such InvITs which are increasing their leverage beyond 49% shall make the following additional disclosures:

a. Financial results on quarterly basis along with specific details of Debt Service Coverage Ratios and Interest Service Coverage Ratios; and

b. Quarterly valuation of assets.

(6). **New regulatory structure for privately placed unlisted InvITs**

(a). **Current Regulatory Requirement**

i. The InvIT Regulations provide for mandatory listing of units of InvITs, issued either through public issue or on private placement basis. As listing provides a public character to even privately placed InvITs, the investor protection and governance measures provided in the regulations are similar to those for publicly issued InvITs.

(b). **Request for change**

i. Representations have been received from various market participants for relaxing some of the regulatory requirements, as given below, only for privately placed InvITs:

a. Increasing the limit on investment by a single investor;

b. Relaxing the requirement of minimum number of investors;

c. Allowing higher level of leverage;

d. Relaxing the requirement of asset mix in terms of completed and under construction assets;

e. Removal of mandatory listing requirement.

ii. It has been represented that investors in privately placed InvITs are usually large and sophisticated entities, who understand the risks and complexities of investing in such structures and are, therefore, comfortable in assuming risks associated with making large investments. The extant maximum investment limit per investor of 25% inhibits such investors. Additionally, these sophisticated investors do not want to get constrained by the requirement relating to the minimum number of investors mandated for such InvIT.

iii. Moreover, such investors demand flexibility not only in terms of higher gearing but also with regard to the composition of asset mix to improve their risk adjusted returns.

(c). **Proposal**

i. Infrastructure is important for sustained growth of the country and the needs for investment in this sector are also large. InvIT is a structure which facilitates channelling of private capital in infrastructure sector. It is, therefore, important to provide sufficient flexibility to InvITs so as to satisfy the varying needs of private pools of capital, such that the ever increasing demands for investment in infrastructure sector are suitably met.

ii. On consideration of these recommendations, to enable such unlisted privately placed InvITs, SEBI seeks to provide a separate framework, which, inter-alia, will provide the following:

a. The number of investors in such an InvIT shall be as determined by the issuer including the extent of investment by a single investor;

b. Leverage shall be as determined by the issuer after consultation with investor;

c. The assets can completed, under construction or both;

d. The minimum investment by an investor shall be not less than Rs 1 crore;

e. Listing of units of such InvIT on recognised stock exchanges shall not to be permitted.

iii. The regulatory framework for privately placed listed InvITs, including registration requirements, structural obligations, operational requirements, corporate governance and investor protection measures, etc. shall be made applicable mutatis-mutandis for the proposed framework for privately placed unlisted InvIT. However, the same shall be harmonised in accordance with the proposal as mentioned at para 6(c)(ii) above.

iv. Existing privately placed listed InvITs may choose to migrate to the proposed framework for private unlisted InvITs, if they obtain the approval of more than 90% of their unitholders by value and exit may be provided to dissenting unitholders. Consequently, the units of such privately placed InvIT shall get delisted from stock exchanges.

v. Conversely a privately placed unlisted InvIT, may choose to list its units on stock exchanges, after complying with the requirements as applicable for a privately placed and listed InvIT.

D. Public Comments

(7). Public comments are invited on the proposed framework given at Para 4, 5 and 6 above. The comments, may be sent by **email or through post**, latest by **February 18, 2019,** in the following format:

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<tr><th colspan="4">Details of Responder</th></tr>
<tr><td colspan="2">Name[1]/Organization:
[1]if responding in personal capacity</td><td colspan="2"></td></tr>
<tr><td colspan="2">Contact number:</td><td colspan="2"></td></tr>
<tr><td colspan="2">Email address:</td><td colspan="2"></td></tr>
<tr><th colspan="4">Comments on the proposals in the consultation paper</th></tr>
<tr><td>Sr. No.</td><td>Para No.</td><td>Comment/proposed change</td><td>Rationale</td></tr>
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While sending email kindly ensure the subject is "**Review of SEBI (Infrastructure Investment Trusts) Regulation, 2014 and SEBI (Real Estate Investment Trusts) Regulation, 2014"**

Postal Address:
Ms. Richa G. Agarwal
Deputy General Manager
Department of Debt and Hybrid Securities
Securities and Exchange Board of India
SEBI Bhavan
C4-A, G Block
Bandra Kurla Complex
Mumbai - 400 051

Email Address:
invit@sebi.gov.in

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