

SEBI issues guidelines for public issue of units by InvITs

May 16, 2016

In brief

The Securities and Exchange Board of India (SEBI) has issued detailed guidelines relating to the public issue and allotment of units by an Infrastructure Investment Trust (InvIT) and the advertisements and other public communications relating to the offer.

This insight provides an overview of the guidelines.

In detail

The SEBI had issued Infrastructure Investment Trusts Regulations on 26 September, 2014.

On 11 May, 2016, the SEBI issued detailed guidelines relating to the public issue and allotment of units by an Infrastructure Investment Trust (InvIT), and the advertisements relating to the offer.

These guidelines are summarised below.

Filing of offer document

- The draft offer document has to be filed with the SEBI and the designated stock exchanges (DSE).
- The lead merchant bankers (LMB) have to submit a certificate confirming that the agreement is entered between the investment manager on behalf of the InvIT and LMB, and a due diligence certificate in the

prescribed form has to be filed with the draft offer document.

- The draft offer document shall be hosted on the websites of SEBI, DSEs, and merchant bankers, for public comment within ten days of filing¹.
- The SEBI may specify changes or issue observations within the prescribed time, pursuant to which the draft offer document has to be suitably modified and filed with SEBI as offer document.
- After filing offer document with SEBI, LMB shall issue pre-issue advertisement on the websites of sponsor, investment manager. LMB may also issue such advertisement in newspapers.

Allocation in public issue

- Institutional investors shall not be allocated more than 75% in a public offering of the InvIT units.

- Other investors, including retail investors, have to be allocated at least 25% of the InvIT units.

Anchor investors

- A strategic investor may participate in an offer as an anchor investor.
- The investment manager, on behalf of the InvIT, may allocate up to 60% of the portion available to institutional investors to anchor investors.
- The anchor investors will have to make an application of a value of at least INR 100 million in the public issue.

Allocation to anchor investor shall be on a discretionary basis, and subject to the minimum of two investors for allocations of up to INR 2.5 billion and minimum five investors for allocations exceeding INR 2.5 billion.

- The bidding for anchor

¹ As specified under Regulation 14(4)(f)

investors shall open one day before the issue opening date and the allocation must be completed on the same day.

- The number of units allocated and the allocation price must be disclosed on the websites of the stock exchange(s), sponsor(s), investment manager and merchant banker(s).
- The anchor investor shall have to bring in the deficit between the cut-off price and the allocation price, if any.
- The lock-in period shall be thirty days for anchor investors other than a strategic investor. However, lock-in should be one year for strategic investors investing as anchor investors.
- Neither the merchant bankers nor any person related to the merchant bankers in the concerned public issue can apply under the anchor investor category, except mutual funds, insurance companies and pension funds.

Security deposit

- The investment manager, on behalf of the InvIT, will have to deposit before the opening of subscription, and keep deposited with the stock exchanges, an amount calculated at the rate of 0.5% of the amount of units offered for subscription to the public or INR 50 millions, whichever is lower.

Opening of an issue and subscription period

- The issue shall open after at least five working days from the date of filing of the final offer document with SEBI.
- The public issue shall remain

open for at least three working days, but not more than thirty working days.

- In case of a price band revision, the bidding period shall be extended for at least one day, provided that the total bidding period does not exceed thirty days.

Price and price band

- The floor price or the price band has to be announced at least five working days before the opening of the issue on the website of the sponsor, investment manager, DSEs, InvIT and in all newspapers in which the pre-issue advertisement was released.
- Differential pricing shall not be offered to any investor.
- The final price of the units (“cut-off price”) may be determined in consultation with the LMB or through a book building process.

Bidding process

- Bidding through the electronically linked bidding facility of a stock exchange is mandatory. Payment through ASBA facility had been made optional.
- Bids of institutional investors may be rejected by the lead merchant banker at the time of acceptance of bids after providing reason to the bidder and recording the same in writing.
- Withdrawing or lowering the bid size has been prohibited.

Basis of allotment

- The units shall be issued to all bidders at and above the cut-off price.
- Allotment of units other than

anchor investors shall be on proportionate basis within the specified investment categories, subject to minimum allotment, as per regulations.

- In case of under-subscription in any investor category, the unsubscribed portion may be allotted to applicants in the other categories.

Public communications, publicity materials, advertisements and research materials

- Public communication shall not contain any matter extraneous to the offer document, and shall be truthful and fair.

Other conditions

- No InvIT can make a public issue of units if it or any of its sponsors, investment managers, or trustees is debarred from accessing the capital market by SEBI, or is on the list of wilful defaulters published by the Reserve Bank of India.
- Investment managers have to appoint a compliance officer for monitoring compliance of securities laws, besides redressing investor grievances.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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