
SEBI board approves amendments to REIT and InvIT Regulations

September 19, 2017

In brief

Taking another step towards refining the regulatory framework for real estate investment trusts (REITs) and infrastructure investment trusts (InvITs) in India, the Securities and Exchange Board of India (SEBI) on 18 September, 2017, in its board meeting, decided on a few points that could go a long way in creating a successful platform for these vehicles in India. This tax insight provides a snapshot of these decisions.

It is expected that in due course, a notification will be issued amending the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 (REIT Regulations) and Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations) to enact the decisions taken by the SEBI board.

In addition to the above, the SEBI board also decided to consult further with stakeholders on the proposal to allow REITs to invest at least 50% of equity share capital, or interest in special purpose vehicles (SPVs), or holding companies of the SPVs (Hold Cos), and similarly, allowing Hold Cos to invest at least 50% of the equity share capital, or interest in SPVs (as against the current 51%).

In detail

- The REIT Regulations and InvIT Regulations do not allow REITs and InvITs, respectively, to issue debt securities for raising funds. However, it has now been decided to allow REITs and InvITs to raise debt capital by issuing debt securities.
 - The REIT Regulations prescribe that a REIT shall hold at least two projects and not more than 60% of the value of its assets shall be held in a single project. However, no such stipulation exists under the InvIT Regulations. It has now been decided to allow single asset REITs on similar lines as InvITs.
 - While the InvIT Regulations were amended to allow InvITs to undertake lending to Hold Cos/ SPVs, the REIT Regulations remained unchanged. It has now been decided to allow REITs also to lend to underlying Hold Cos/ SPVs.
 - The concept of “strategic investor” exists under the prevailing InvIT Regulations. In this context, it is important to note the following:
 - Definition of strategic investors, *inter-alia*, includes scheduled commercial banks, foreign portfolio investors, etc., together holding not less than 5% of the total offer size of the InvIT; and
 - InvIT is required to disclose commitments received from strategic investors in the offer documents.
- It has now been decided to introduce the concept of strategic investor for REITs on similar lines as InvITs.
- It has been decided to amend the definition of “valuer” in both the REIT Regulations and the InvIT Regulations.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

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