



Grant Thornton

An instinct for growth™

# SEBI clears the decks for REITs and InvITs

August 2014



# Executive Summary

In a significant move, India's capital market regulator – Securities and Exchange Board of India (SEBI) – has approved the introduction of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs), creating new sources of funding for cash-strapped Real Estate & Infrastructure sector. The SEBI's approval comes close on the heels of the announcement by the Government providing tax pass-through status for this new investment channel. REITs are listed entities that invest in commercial real estate assets and their earnings are distributed to their shareholders. The tax pass-through status implies that return from investments through REITs will be taxed only in the hands of investors. The trusts will be exempted from paying tax on income.

As per the regulation, both REIT and InvIT shall be set up as trusts and will be required to be registered with the SEBI. A REIT will be allowed to raise funds through an initial offer and follow-on offer, rights issue, qualified institutional placements, post listing. The minimum issue size for initial offer shall be Rs 250 crore. The regulation also stipulates that a REIT should have the value of the assets owned/proposed to be owned of not less than Rs 500 crore. In the case of InvIT, the minimum issue size for initial offer shall be Rs 250 crore. The proposed holding of an InvIT in the underlying assets should be at least Rs 500 crore.

The regulator's nod on REITs and InvITs will offer a new investment channel for high-net worth individuals looking to invest in India's promising real estate and infrastructure sector. For real estate developers, it would reduce their dependence on banks for raising capital. Eventually, overseas investors like pension funds and insurance companies would also be able to invest, subject to announcement of final rules relating to FEMA, thus creating a wider pool of funds for dynamic businesses operating in this sector.

In his address to the SEBI board, Finance Minister Mr. Arun Jaitley advised the capital market regular to remain vigilant about probable violations in the market, focus more on attracting the retail investors and on redressing investor grievances.

The SEBI Chairman Mr. U K Sinha expressed the hope that with both the tax treatments (as announced in the Union Budget) and SEBI regulations in place, there will be some progress in the real estate market and in the infrastructure sector.

Grant Thornton is delighted to present the summary of the regulations approved by the SEBI board in its meeting on Sunday, 10 August 2014.



**SEBI (Real Estate Investment Trusts 'REIT' Infrastructure Investment Trusts 'InvIT') Regulations, 2014:**

Key Provisions	REITs	InvITs
<b>Composition</b>	<ul style="list-style-type: none"> <li>REITs shall be set up as a trust and required to be registered with SEBI</li> <li>it shall have parties such as Trustee, Sponsor(s) and Manager</li> <li>the trustee of a REIT shall be a SEBI registered debenture trustee who is not an associate of the Sponsor/ Manager</li> </ul>	<ul style="list-style-type: none"> <li>InvITs shall be set up as a trust and required to be registered with SEBI</li> <li>it shall have parties such as Trustee, Sponsor(s), Investment Manager and Project Manager</li> <li>the trustee of an InvIT shall be a SEBI registered debenture trustee who is not an associate of the Sponsor/ Manager</li> </ul>
<b>Public offering of units and its listing:</b>	<ul style="list-style-type: none"> <li>the REIT shall raise funds through an initial offer and follow-on offer, rights issue, qualified institutional placement, etc. post listing</li> <li>minimum issue size for initial offer shall be Rs 250 crore</li> <li>REIT's should have the value of the assets owned/proposed to be owned not less than Rs 500 crore</li> <li>minimum subscription shall be Rs 2 lakhs per investor and the trading lot for such units shall be Rs 1 lakhs</li> <li>units of REITs shall be mandatorily listed on a recognised Stock Exchange.</li> <li>the minimum public share in initial offer should not be less than 25% of the number of units of the REIT on post-issue basis</li> </ul>	<ul style="list-style-type: none"> <li>minimum issue size for initial offer shall be Rs 250 crore</li> <li>the proposed holding of an InvIT in the underlying assets should be atleast Rs 500 crore</li> <li>an InvIT which proposes to invest atleast 80% of the value of the assets in completed and revenue generating infrastructure assets shall: <ul style="list-style-type: none"> <li>raise funds only through public issue of shares</li> <li>have a minimum 25% public float and atleast 20 investors</li> <li>have minimum subscription and trading lot of Rs 10 lakhs and Rs.5 lakhs respectively.</li> <li>at least 90% of the net distributable cash flows to be distributed to its investors on a half yearly basis</li> </ul> </li> <li>InvIT to undertake full valuation on a yearly basis through a valuer and updation of the same on a half yearly basis</li> <li>InvIT to declare NAV within 15 days from the date of such valuation/ updation</li> <li>balance of the value of InvIT assets shall be invested in under construction infrastructure projects and other specified investments</li> </ul>



Key Provisions	REITs	InvITs
		<ul style="list-style-type: none"> <li>• investments in under construction projects should not exceed 10% of value of InvIT assets</li> <li>• an InvIT which proposes to invest more than 10% of the value of their assets in under construction projects shall:               <ul style="list-style-type: none"> <li>– raise funds only through private placement from qualified institutional buyers and body corporates.</li> <li>– have minimum investment and trading lot of Rs 1 crore</li> <li>– the minimum investors should be 5 with each holding not more than 25% of the units</li> <li>– at least 90% of the net distributable cash flows to be distributed to its investors on an half yearly basis</li> <li>– InvIT to undertake full valuation on a yearly basis</li> <li>– InvIT to declare NAV within 15 days from the date of such valuation</li> </ul> </li> <li>• listing for both publicly offered and privately placed InvITs is mandatory</li> </ul>
<p><b>Key eligibility criteria for Sponsor</b></p>	<ul style="list-style-type: none"> <li>• REIT can have multiple sponsors but not more than 3, subject to each holding at least 5% of the units of the REIT</li> <li>• sponsors to hold at least 25% of the units of the REIT for a period of at least 3 years from the date of listing and after 3 years, sponsors to hold minimum 15% of the units of REIT, throughout the life of the REIT</li> </ul>	<ul style="list-style-type: none"> <li>• sponsors to hold atleast 25% of the units of the InvIT for a period of atleast 3 years from the date of listings</li> <li>• except for the cases where a regulatory requirement/ concession agreement requires the sponsor to hold a certain minimum percent in the underlying SPV;</li> <li>• in such cases, the consolidated value of such sponsor holding in the underlying SPV and in the InvIT should be atleast 25% of the total units of the InvIT on post issue basis</li> </ul>



Key Provisions	REITs	InvITs
<b>Role of Trustee and Manager</b>	<ul style="list-style-type: none"> <li>trustee shall have an overseeing role in the activity of the REIT.</li> <li>the manager shall assume operational responsibilities pertaining to the REIT</li> </ul>	None specified in SEBI guideline
<b>Investment conditions</b>	<ul style="list-style-type: none"> <li>REIT shall invest in commercial real estate assets, either directly or through SPVs</li> <li>in such SPVs, a REIT shall hold or proposes to hold controlling interest and at least 50% of the equity share capital or interest</li> <li>SPVs shall hold not less than 80% of its assets directly in real estate properties and shall not invest in other SPVs</li> <li>investment by a REIT to be: <ul style="list-style-type: none"> <li>at least 80% of the value of the REIT assets shall be in completed and revenue generating properties.</li> <li>not more than 20% of the value of REIT assets shall be invested in following : <ul style="list-style-type: none"> <li>developmental properties,</li> <li>mortgage backed securities,</li> <li>listed/ unlisted debt of companies/body corporates in real estate sector,</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>InvITs shall invest in infrastructure projects, either directly or through SPV.</li> <li>in case of Public-Private partnership ('PPP') projects, such investments shall only be through SPV</li> <li>in such SPVs, an InvIT shall hold or proposes to hold controlling interest and more than 50% of the equity share capital or interest except if it is not possible due to a regulatory requirement/ requirement emanating from the concession agreement. In such cases sponsor to enter into an agreement with InvIT, to ensure that no decision taken by the sponsor, including voting decision with respect to the SPV are against the interest of the InvIT/ its unit holders</li> </ul>



Key Provisions	REITs	InvITs
	<ul style="list-style-type: none"> <li>equity shares of companies listed on a recognized stock exchange in India which derive not less than 75% of their operating income from Real Estate activity,</li> <li>government securities,</li> <li>money market instruments or Cash equivalents</li> <li>investments in developmental properties shall be restricted to 10% of the value of the REIT assets</li> <li>a REIT shall invest in at least 2 projects and investment in one project should not exceed 60% of value of assets</li> </ul>	<ul style="list-style-type: none"> <li>InvITs investing in under construction projects <ul style="list-style-type: none"> <li>for PPP projects <ul style="list-style-type: none"> <li>at least 50% of the construction of infrastructure project should be completed as certified by an independent engineer</li> <li>has expended atleast 50% of the total capital cost as set in financial package of project agreement</li> </ul> </li> <li>for Non-PPP projects: <ul style="list-style-type: none"> <li>all requisite approvals and certifications for commencing construction of project should be in place</li> </ul> </li> </ul> </li> </ul>
<b>Valuation of assets</b>	<ul style="list-style-type: none"> <li>undertake full valuation on a yearly basis through a valuer and updation of the same on a half yearly basis</li> <li>declare NAV within 15 days from the date of such valuation/ updation</li> </ul>	
<b>Distribution of income</b>	<ul style="list-style-type: none"> <li>at least 90% of the net distributable cash flows to be distributed to its investors on a half yearly basis</li> </ul>	
<b>Borrowings and deferred payments</b>	<ul style="list-style-type: none"> <li>aggregate borrowings and deferred payments of the REIT/ InvIT shall not exceed 49% of the value of the assets</li> <li>in case such borrowings/ deferred payments exceed 25% of the REIT/ InvIT assets, approval from unit holders and credit rating shall be required</li> </ul>	
<b>Others</b>	<ul style="list-style-type: none"> <li>for any issue requiring unit holders' approval, voting by a person who is a related party in such transaction as well as its associates shall not be considered</li> <li>detailed provisions for related party transactions, valuation of assets, disclosure requirements, rights of unit holders, etc. have been specified</li> </ul>	

“ With SEBI’s approval on REITs, India joins the ranks of Japan, Hong Kong, Singapore, Malaysia (the leading Asian REITs markets) to embrace this asset class. The impact of this investment vehicle will be far reaching. Apart from opening the doors for funds to the cash-starved sector and creating one more investment option for investors, REITs will also support the development of the real estate sector by “increasing transparency”. As a listed vehicle, a lot of information will be disseminated with the unit holders and other stakeholders at large.

” ” **Neeraj Sharma**  
Partner  
Walker Chandiook & Co LLP

We hope you will find the information useful and share your comments and feedback with us.



# Contact us

---

## **NEW DELHI**

National Office  
Outer Circle  
L 41 Connaught Circus  
New Delhi 110 001  
T +91 11 4278 7070

## **BENGALURU**

"Wings", 1st floor  
16/1 Cambridge Road  
Ulsoor  
Bengaluru 560 008  
T +91 80 4243 0700

## **CHANDIGARH**

SCO 17  
2nd floor  
Sector 17 E  
Chandigarh 160 017  
T +91 172 4338 000

## **CHENNAI**

Arihant Nitco Park, 6th floor  
No.90, Dr. Radhakrishnan  
Salai  
Mylapore  
Chennai 600 004  
T +91 44 4294 0000

## **GURGAON**

21st floor, DLF Square  
Jacaranda Marg  
DLF Phase II  
Gurgaon 122 002  
T +91 124 462 8000

## **HYDERABAD**

7th floor, Block III  
White House  
Kundan Bagh,  
Begumpet  
Hyderabad 500 016  
T +91 40 6630 8200

## **KOLKATA**

10C Hungerford  
Street  
5th floor  
Kolkata 700 017  
T +91 33 4050 8000

## **MUMBAI**

16th floor, Tower II  
Indiabulls Finance Centre  
SB Marg, Elphinstone (W)  
Mumbai 400 013  
T +91 22 6626 2600

## **NOIDA**

Plot No. 19A, 7th Floor  
Sector – 16A,  
Noida 201 301  
T + 91 120 710 9001

## **PUNE**

401 Century Arcade  
Narangi Baug Road  
Off Boat Club Road  
Pune 411 001  
T +91 20 4105 7000

---

© Grant Thornton India LLP. All rights reserved.

Grant Thornton India LLP (formerly Grant Thornton India) is registered with limited liability with identity number AAA-7677 and its registered office at L-41 Connaught Circus, New Delhi, 110001

Grant Thornton India LLP is a member firm within Grant Thornton International Ltd ('Grant Thornton International').

Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered by the member firms independently.

### Disclaimer:

The information contained in this document has been compiled or arrived at from other sources believed to be reliable, but no representation or warranty is made to its accuracy, completeness or correctness. The information contained in this document is published for the knowledge of the recipient but is not to be relied upon as authoritative or taken in substitution for the exercise of judgment by any recipient. This document is not intended to be a substitute for professional, technical or legal advice or opinion and the contents in this document are subject to change without notice. Whilst due care has been taken in the preparation of this document and information contained herein, neither Grant Thornton nor other legal entities in the group to which they belong, accept any liability whatsoever, for any direct or consequential loss howsoever arising from any use of this document or its contents or otherwise arising in connection herewith.

[www.grantthornton.in](http://www.grantthornton.in)