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De'construct'ing InvITs and REITs.



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A. FOREWORD

India's position as one of the fastest growing economies in the world is undisputed today. Infrastructure and real estate are two important sectors that underpin sustained economic growth and development, and have critical importance for India's growth both on economic and social parameters. The importance of these two sectors is also evident from experience - the 2008 financial crisis triggered primarily by stagnation or deceleration of real estate sector in the US is a recent case in point. However, these two sectors also need significant impetus from the government, perhaps more than others, for sustained growth and orderly development and the reasons for that are not far to seek. There are inherent barriers to growth of these sectors (such as high cost of development, long gestation periods and illiquid nature of assets), which can be overcome only through constant innovation, both technical and financial, and government support.

A part of the reason for continued growth of Indian economy, even in the midst of global financial crisis, and its sustained ability to attract global investments has been the dynamic regulatory regime ushered in after the economic liberalization process which started in 1991. Introduction of InvITs and REITs is a testimony to that dynamic regulatory regime. It could not have been introduced at a more opportune time as it comes in the backdrop of increased focus on infrastructure and real estate development and increased challenges for financing that. Historically, banks and financial institutions have been primarily saddled with the responsibility of financing these sectors. Lately, though, both these sectors have been attracting private sources of financing, such as private equity investments in project SPVs. InvITs and REITs provide an opportunity to participate in infrastructure and real estate financing through a stable and liquid instrument and also encourages better governance structures. It also provides smaller and non-institutional investors an opportunity to participate in infrastructure and real estate financing and reap the benefits of growth in these sectors, through a marketable instrument, which is less prone to vicissitudes of speculation and volatility inherent in equity investments.

InvITs and REITs would also enable internalization of capital raising. In the last few years, many infrastructure and real estate

companies had evinced interest in listing of similar products in overseas jurisdictions, which had established regulatory regime for business trusts and REITs (such as Singapore) – some succeeded in achieving listing, many did not. Low success rate of such listings by Indian companies in overseas jurisdictions can be attributed to two key reasons - a high cost of capital and regulatory expense. With introduction of InvITs and REITs, Indian capital markets have overcome the competitive disadvantage on that front and provided Indian companies with a much needed additional avenue for financing. However, the experience garnered while undertaking listing of business trusts and REITs in Singapore has held all stakeholders, including corporates and advisors, in good stead. Fortunately, our firm and various partners were at the epicenter of many of these transactions, which has enabled us to have profound understanding of this product and makes us very well placed to advise prospective sponsors of InvITs and REITs. As an illustration, our firm acted as the Indian legal adviser to Fortis Healthcare Limited and the trustee-manager in the listing of Religare Health Trust. Our legal acumen was tested to the fore in overcoming multiple legal challenges, which largely emanate from such transactions straddling across many legal areas, such as general corporate, real estate or infrastructure (or in most cases, both), tax, competition law, and last but definitely not the least, capital markets. Additionally, we had the opportunity to interact with regulators (such as Monetary Authority of Singapore and Singapore Exchange), which enabled us to gain a perspective of experienced regulators on such products. This also helped us in providing incisive inputs during multiple rounds of consultative process initiated by SEBI. Our firm and partners have invested significant time and resources in engaging with various stakeholders, such as regulators, prospective issuers and other advisors to help in achieving an optimum regulatory regime for InvITs and REITs.

It would be a remiss to conclude any discussion about InvITs and REITs without highlighting the stellar role that the government and SEBI played in making InvITs and REITs a reality. The government has provided a largely favourable tax regime and liberalized the ability to invest in InvITs and REITs. The consultative process that SEBI initiated on regulatory regime governing InvITs and REITs provided an opportunity to all stakeholders to highlight any

practical challenges and provide suggestions that would make InvITs and REITs an attractive investment option. SEBI has considered such suggestions favourably, without losing sight of its most important aim – protecting investors’ interest.

2016 can be considered a watershed year for InvITs and REITs – it witnessed significant regulatory changes and registration of six InvITs and application for registration of one REIT. Our firm has been fortunate to act as legal advisors for the REIT and three of the InvITs, including India Grid Trust (with Sterlite Power Grid Ventures Limited) which has filed its Draft Offer Document for an IPO. On the regulatory front, SEBI issued several consultation papers for comments from the public and subsequently, amended the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 and the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 to introduce several key changes and further streamline these regulations, aligning them with the requirements and challenges of the specific industry sectors, while continuing to make these financial products attractive to investors. SEBI has also introduced a framework for corporate governance norms and disclosure standards for both InvITs and REITs.

We present this handbook to enable readers to comprehend the basics of the systems, procedures and rules that are essential for entities seeking to list InvITs and REITs. This handbook has been updated until December 31, 2016. Some of the regulations may be subject to further change.

NOTE: All information included in this handbook has been compiled from credible and reliable sources. Although reasonable care has been taken to ensure that the information in this handbook is true and accurate, such information is provided ‘as is’, without any warranty, express or implied as to the accuracy or completeness of any such information. Cyril Amarchand Mangaldas shall not be liable for any losses incurred by any person from any use of this publication or its contents. This handbook does not constitute legal or any other form of advice from Cyril Amarchand Mangaldas. Readers should consult their legal, tax and other advisors before making any investment or other decision with regard to any business in India.

Mumbai
January, 2017

B. Infrastructure Investment Trusts

I. INTRODUCTION



1. What is an InvIT?

An infrastructure investment trust is a trust formed under the Trusts Act and registered under the Registration Act. In accordance with the Trusts Act, a trust is an obligation attached to the ownership of property. The obligation is created by the author of the trust, accepted by the owner of property and owed to the beneficiaries identified in the Trust Deed. In the context of an InvIT, the trust is created by the Sponsor, the ownership of the property vests in the Trustee and the beneficiaries are the Unitholders of the InvIT.

An InvIT can only invest in infrastructure projects or companies with at least 90% of its assets comprising infrastructure projects, within the framework provided under the InvIT Regulations.

For the purposes of the InvIT Regulations, “Infrastructure” includes all the infrastructure sub-sectors specified in the Harmonised Master List of Infrastructure Sub-sectors dated September 9, 2016 issued by the Ministry of Finance, available at <http://egazette.nic.in/WriteReadData/2016/171686.pdf>. Such infrastructure sub-sectors include roads and bridges, ports, airports, metros, electricity generation, transmission or distribution, telecommunication services, telecommunication towers, capital stock of hospitals and educational institutions, certain categories of hotels and convention centres and common infrastructure for industrial parks or other parks with industrial activity (such as, special economic zones).

2. What are the key laws applicable to InvITs?

The key laws applicable to InvITs include the InvIT Regulations, the InvIT Guidelines, the Trusts Act, the Registration Act, the FEMA and the Income Tax Act, 1961.

3. Who are the parties involved in the establishment of an InvIT?

The parties involved in the establishment of an InvIT are the

Sponsor, the Trustee, the Investment Manager and the Project Manager, each with distinct duties, roles and responsibilities.

4. **What is a Project SPV/ a Holdco?**

A Project SPV may be a company or an LLP in which either the InvIT or the Holdco (as defined below) holds or proposes to hold controlling interest and not less than 51% of the equity share capital or interest. However, in case of PPP Projects where such acquiring or holding is disallowed by government or regulatory provisions under the concession agreement or such other agreement, this clause shall not apply and shall be subject to provisions of the InvIT Regulations. It also includes a company or an LLP in (i) which hold not less than 99% of its assets directly in infrastructure projects and does not invest in other Project SPVs; and (ii) which is not engaged in any other activity other than activities pertaining to and incidental to the underlying infrastructure projects.

An InvIT may invest in infrastructure projects through a Project SPV subject to certain investment restrictions, including (i) the partner or shareholder of the Project SPV should not have any rights which may prevent the InvIT from complying with the InvIT Regulations; and (ii) the Investment Manager, in consultation with the Trustee, should appoint majority of the board of directors or governing boards of the Project SPVs, as may be applicable.

A Holdco may be a company or an LLP (i) in which the InvIT holds or proposes to hold controlling interest and not less than 51% of the equity share capital or interest and which in turn has made investments in other Project SPVs, which ultimately hold the infrastructure assets; and (ii) which is not engaged in any other activity other than holding of the underlying Project SPVs, holding of infrastructure projects and any other activities pertaining to and incidental to such holdings.

An InvIT may invest in infrastructure projects through a Holdco subject to certain investment restrictions, including (i) the holding interest of the InvIT in the Project SPV(s) should be at least 26%; and (ii) the Investment Manager, in consultation with the Trustee, should appoint majority of the board of directors or governing boards of the Holdco and Project SPVs, as may be applicable.

5. What are the various intermediaries involved in an InvIT?

The following are the intermediaries that are appointed for an Issue for the purposes of listing of the Units of an InvIT:

(a) *Merchant Bankers*

The Investment Manager is required to appoint at least one or more Merchant Bankers, registered under the Merchant Bankers Regulations, and at least one of them shall be the lead Merchant Banker for the Issue of Units of InvITs, known as the Merchant Banker to the Issue. The InvIT shall be permitted to file the Draft Offer Document only through a Merchant Banker.

The Merchant Bankers are expected to exercise due diligence and in respect of a public offer, the Merchant Bankers are required to file a due diligence certificate along with a copy of the Draft Offer Document, the Offer Document, at the time of opening of the Issue and at the time of submission of the final Issue report with SEBI. Further, the Merchant Bankers advise the InvIT and Parties to the InvIT on appointment of other intermediaries.

The Merchant Bankers interact with SEBI and the Stock Exchanges throughout the listing process, including receiving final observations from SEBI and receiving in-principle and final listing approvals from the Stock Exchanges. The Merchant Bankers also assist with co-ordinating road shows for marketing of the Issue for public offers.

The Merchant Bankers also have certain post-Issue obligations such as filing of monitoring reports with SEBI, redressal of investor grievances including those in relation to refund, allotments, dispatches and payment of interest to applicants.

(b) *Registrar to the Issue*

The Registrar to the Issue, an entity registered with SEBI, is required to accept application forms from investors in the Issue, process application forms from

Syndicate Members of SCSBs, co-ordinate the process for allotment of Units of the InvIT and refund the subscription amount where the Units are not allotted to the applicant. The Registrar is also required to accurately maintain physical and electronic Bid data for Bids received, including maintaining a record of application forms received.

(c) *Syndicate Members*

Syndicate Members collect application forms from applicants during the Issue period, and enter details into the electronic bidding system on the stock exchanges and undertake preliminary verification prior to sending the application forms to the Registrar of the Issue.

(d) *Public Issue Banks*

Public Issue Banks are banks with whom the public offer accounts are opened for the collection of application money received from investors.

Public Issue Banks would typically, not be required in a private placement.

(e) *Escrow Collection Banks*

An Escrow Collection Bank acts as an escrow agent in relation to the application money received as a part of the public offer from non-ASBA Investors. The escrow account is opened for collecting the application money received from non-ASBA Investors. An Escrow Collection Bank also handles refunds of excess amount received from non-ASBA Investors.

(f) *Credit Rating Agencies*

A Credit Rating Agency is responsible for assigning credit rating to the Units of the InvIT, in such manner as may be prescribed by the InvIT Regulations. Further, in terms of the InvIT Regulations, credit rating is mandatorily required to be obtained from a Credit Rating Agency if the aggregate consolidated borrowings and deferred payments of the InvIT exceed 25% of the value of the InvIT Assets.

(g) SCSBs, Registered Brokers, RTAs and CDPs

SCSBs or Registered Brokers or Registrar and Share Transfer agents or Collecting Depository Participants collect application forms from applicants during the Issue period, and enter details into the electronic bidding system on the Stock Exchanges and undertake preliminary verification prior to sending the application forms to the Registrar to the Issue.

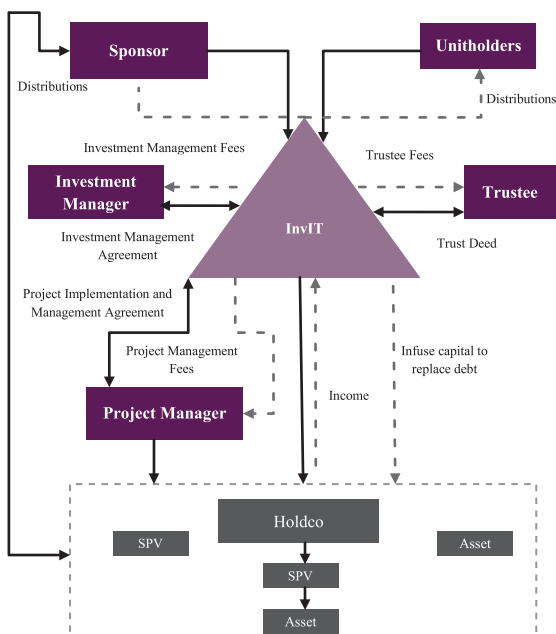
(h) Advertising agency

In respect of a public offer, an advertising agency is responsible for advertising and publicity, undertaking public relation activities and providing information to the Merchant Bankers to enable them to submit the compliance certificate to SEBI as specified under the InvIT Guidelines.

However, no advertisements may be issued in case of a private placement.

5. What is the typical structure of an InvIT?

Set out below is the typical structure of an InvIT:



6. What is the process for registration of an InvIT?

Set out below are the steps involved in registration of an InvIT:

- Identification and appointment of the Trustee by the Sponsor
- Formation of a trust under the Trusts Act and registration of the same under the Registration Act by the Sponsor
- Identification of the Investment Manager and the Project Manager
- Submission of the application to SEBI by the Sponsor for registration of the InvIT in the manner prescribed under, the InvIT Regulations along with draft of the Trust Deed, the Investment Management Agreement and the Project Implementation and Management Agreement. Some of the key information to be included in the application is (i) details of the parties to the InvIT; (ii) description of assets to be included under the InvIT; (iii) details of the business plan and investment strategy; (iv) details of disciplinary action, and litigation connected with securities market if any, against the Parties to the InvIT and each of their directors including refusal of registration or suspension of registration by SEBI
- Review of application by SEBI, addressing queries by SEBI in respect of the application and incorporating comments, if any, by SEBI on the Trust Deed, the Investment Agreement and the Project Implementation and Management Agreement
- Grant of in-principle approval by SEBI for registration of the InvIT
- Submission of the executed Trust Deed and Investment Management Agreement to SEBI
- Grant of the final registration certificate as an InvIT by SEBI

7. When is the Sponsor required to transfer infrastructure assets to the InvIT?

The Sponsor is required to transfer the infrastructure assets (which constitute the initial portfolio assets of the InvIT) to the InvIT prior to allotment of Units of the InvIT through private placement or public offer for the listing of Units.

II. OFFERINGS BY INVITS

1. Is there a mandatory listing requirement under the InvIT Regulations?

Yes, an InvIT is required to list its Units under the InvIT Regulations. Under the extant InvIT Regulations, if an InvIT fails to offer its Units (either through a public offer or a private placement) within three years from the date of registration of the InvIT with SEBI, it is required to surrender its certificate of registration and should cease to operate as an InvIT.

2. What are the various types of Units' offerings that can be undertaken by an InvIT?

An InvIT can undertake listing through an initial public offer or a private placement of its Units. The minimum size of such public offer or private placement should be ₹ 2,500 million.

A listed InvIT can undertake the following types of offerings of its Units: (a) a follow-on public offer; (b) a preferential allotment; (c) a qualified institutions placement; (d) a rights Issue; and (e) a bonus Issue. However, the extant InvIT Regulations do not provide the operational rules or guidelines for undertaking such offerings of Units by an InvIT.

3. What are the basic requirements for undertaking a public offer or private placement for listing of Units by an InvIT?

An InvIT is eligible to undertake a public offer or a private placement for listing of its Units only if the value of the assets comprising initial portfolio of assets of the InvIT, (being the value of the portion of the holding of InvIT in the underlying assets) is at least ₹ 5,000 million. Moreover, the size of the public offer or the private placement should be at least ₹ 2,500 million.

4. What constitutes a public offer of Units by an InvIT? What are the eligibility requirements and other important conditions applicable to a public offer of Units by an InvIT?

A public offer of Units by an InvIT is an offer of Units in which any person eligible to invest can participate and is not restricted for participation by QIBs and bodies corporate. Further, any offer to more than 1,000 persons (even if restricted to QIBs and bodies corporate) shall constitute a public offer. A public offer can only be undertaken by an InvIT that complies with the following investment conditions:

- (a) Minimum 80% of the value of the InvIT Assets shall be invested in completed and revenue generating infrastructure projects; and
- (b) Maximum 20% of the value of the InvIT Assets shall be invested in other eligible investments including, investments in under-construction projects, which shall not exceed 10% of the value of InvIT Assets.

5. What is the minimum subscription required in a public offer of the Units of an InvIT? Is there any requirement for minimum number of investors?

A minimum subscription of 90% of the Issue size is required for a public offer. In the event minimum subscription is not received, the InvIT would have to refund the application money received from prospective investors within a period of 12 Working Days from the Issue Opening Date, failing which, the Investment Manager shall be liable to pay interest at a rate of 15% per annum for the period of delay. There should be at least 20 investors in the public offer, with each investor holding not more than 25% of the Units, at any time.

6. Is there any minimum dilution required in a public offer?

The minimum percentage of Units required to be offered to the public in a public offer or a private placement is as follows:

- (a) If the post-Issue capital of the InvIT calculated at the offer price is less than ₹ 6,000 million, then, at least 25% of the Units shall be offered to the public;
- (b) If the post-Issue capital of the InvIT calculated at the offer price is equal to or more than ₹ 16,000 million and less than ₹ 40,000 million, then, such percentage of Units equivalent to ₹ 4,000 million shall be offered to the public; and
- (c) If the post-Issue capital of the InvIT calculated at the offer price is equal to or more than ₹ 40,000 million, then, at least 10% of the Units shall be offered to the public.

In the event initial public shareholding is less than 25% in accordance with (b) or (c) above, the InvIT shall be required to increase its public shareholding to 25% within a period of three years from the date of initial listing. For the above purposes, “public” refers to Unitholders other than the Sponsor, the Investment Manager, the Project Manager and each of their related parties and associates as defined under the InvIT Regulations.

7. What constitutes private placement? What are the eligibility requirements and other important conditions applicable to a private placement?

A private placement is an offer limited to QIBs and bodies corporate only. Further, the minimum number of Unitholders pursuant to a private placement, other than the Sponsor and its related parties and associates, is five, with each such Unitholders holding not more than 25% of the Units. Further, a private placement cannot be made to more than 1,000

investors. Additionally, no advertisements can be issued in relation to a private placement.

In respect of a privately placed InvIT, minimum 80% of the value of the InvIT Assets shall be invested in eligible infrastructure projects.

8. What is the minimum subscription required in a private placement? Is there any requirement for minimum number of investors?

There is no minimum subscription requirement in a private placement of Units by an InvIT.

The private placement is required to be made to five investors (other than the Sponsor and its related parties and associates) and not more than 1,000 investors. Moreover, on a continuous basis, an InvIT is required to have at least five investors (other than the Sponsor and their related parties and associates), with each investor holding not more than 25% of the Units of the InvIT.

9. Are Units required to be issued in dematerialised form?

Yes, Units of an InvIT are required to be issued to applicants in the dematerialized form only.

10. Is an InvIT permitted to have multiple classes of units?

The InvIT Regulations do not permit any InvIT to have multiple classes of units and no Unitholder shall enjoy superior voting or other rights. However, subordinate Units may be issued to the Sponsor or its associates, provided such subordinate Units carry inferior voting or other rights, as compared to other Units.

11. What are the corporate approvals required for Issue of Units in India?

A public offer or a private placement of Units of an InvIT requires approval of the board of directors of the Investment Manager and the Sponsor to undertake an Issue of Units.

12. What is the ASBA mechanism?

ASBA is a mechanism prescribed by SEBI, which may be used in an Issue of Units by InvITs, wherein the application money can be blocked in the bank account, details of which are provided in the application form, until just prior to allotment of Units as opposed to the application money being submitted along with the application form.

13. Is participation through ASBA mandatory?

The ASBA facility is optional in all public offers, at the discretion of the InvIT.

III. PARTIES AND INTERMEDIARIES TO AN INVIT

1. Who is a Sponsor? What are the eligibility requirements for a Sponsor?

An InvIT, being a trust, the Sponsor of an InvIT is the author and is required to transfer the initial portfolio of assets to an InvIT.

A Sponsor may be a company, an LLP or a body corporate. In respect of PPP, the Sponsor shall be an infrastructure developer or a special purpose vehicle holding a concession agreement.

The key eligibility requirements for a Sponsor are:

- (a) If the Sponsor is a body corporate or a company, its net worth should not be less than ₹ 1,000 million. If the Sponsor is an LLP, its net tangible assets should not be less than ₹ 1,000 million;
- (b) The Sponsor or its associates should have a sound track record of at least five years in development of infrastructure or fund management in the infrastructure sector. Further, if the Sponsor is an infrastructure developer, it should have developed at least two projects; and
- (c) The Sponsor should be a fit and proper person based on the criteria specified under Schedule II of the SEBI Intermediaries Regulations.

2. What are the duties, roles and responsibilities of a Sponsor?

The rights, duties and responsibilities of the Sponsor include:

- (a) Establishing the trust, appointing the Trustee and the Investment Manager and making an application to SEBI for registration of the InvIT;
- (b) Transferring or undertaking to transfer to the InvIT, its entire shareholding or interest in the Holdco or the Project SPV, or the ownership of the infrastructure project(s) prior to allotment of Units; and

- (c) The InvIT Regulations provide an exception to this requirement, if there are any mandatory shareholding requirements applicable to the Sponsor under any law, regulation, circular or guidelines issued by the government or regulatory or concessioning authority or the concession agreement.

Further, the Sponsor is subject to certain lock-in requirements applicable to the Units held by it. For further details of the lock-in requirements, please see *Section V, Question 14*.

3. Who is a Trustee? What are the eligibility requirements for a Trustee?

The Trustee is the owner of the InvIT Assets, which are held by it in trust. The Trustee holds InvIT Assets for the benefit of the Unitholders. The ownership of the InvIT Assets is transferred by the Sponsor (being the author of the InvIT). For details in relation to the process of such transfer (including timing), please see *Section IV, Question 2(a)(iv)*.

The key eligibility requirements for a Trustee are:

- (a) The Trustee should be registered under the SEBI Debenture Trustee Regulations;
- (b) The Trustee should not be an associate of the Sponsor, the Investment Manager or the Project Manager;
- (c) The Trustee should possess the infrastructure and personnel, etc. necessary to undertake the obligations of a trustee, to the satisfaction of SEBI; and
- (d) The Trustee should be a fit and proper person based on the criteria specified under Schedule II of the Intermediaries Regulations.

4. What are the duties, roles and responsibilities of a Trustee?

The duties, roles and responsibilities of a Trustee include:

- (a) Appointment and removal of the Project Manager and the Investment Manager, subject to compliance with InvIT Regulations;

- (b) Overseeing the activities of the Investment Manager and the Project Manager in the interest of the Unitholders;
- (c) Entering into various agreements on behalf of the InvIT, including the Trust Deed, the Investment Management Agreement and the Project Implementation and Management Agreement amongst other transaction documents;
- (d) Ensuring compliance with various reporting and disclosure requirements prescribed under the InvIT Regulations and the InvIT Guidelines;
- (e) Reviewing the status of investor complaints and redressal thereof by the Investment Manager;
- (f) Declaring distributions to the Unitholders in accordance with the InvIT Regulations; and
- (g) Ensuring the activities of the InvIT are carried out in accordance with the InvIT Regulations, the Trust Deed and the Offer Document.

5. Who is an Investment Manager? What are the eligibility requirements for an Investment Manager?

The Investment Manager is responsible for undertaking investment decisions for the InvIT, managing the InvIT Assets, undertaking or initiating activities related to general corporate aspects of an InvIT (such as Unitholder's meeting, investor grievance redressal, Issue by an InvIT) and ensuring compliance with the requirements of the InvIT Regulations.

The Investment Manager may be a company, an LLP or a body corporate. The eligibility requirements for an Investment Manager include:

- (a) If the Investment Manager is a body corporate or a company, its net worth should not be less than ₹ 100 million. If the Investment Manager is an LLP, its net tangible assets should not be less than ₹ 100 million;
- (b) The Investment Manager should have experience of not less than five years in fund management or advisory services or development in the infrastructure sector;

- (c) The Investment Manager should have at least two employees, each having minimum five years experience in fund management or advisory services or development in the infrastructure sector;
- (d) The Investment Manager should have at least one employee who has minimum five years experience in the relevant sub-sectors in which the InvIT has invested or proposes to invest;
- (e) The board of directors (or governing board of LLPs) of the Investment Manager should consist of at least 50% independent directors;
- (f) At least 50% of the board of directors (or governing board of LLPs) of the Investment Manager should not be directors (or members of governing board of LLPs) of any other infrastructure investment trust; and
- (g) The Investment Manager is a fit and proper person based on the criteria specified under Schedule II of the SEBI Intermediaries Regulations.

6. What are the duties, roles and responsibilities of an Investment Manager?

The duties, roles and responsibilities of the Investment Manager include:

- (a) Making investment decisions with respect to the underlying assets or projects of the InvIT including any future investment or divestment of assets;
- (b) Overseeing activities of the Project Manager to ensure compliance with the InvIT Regulations;
- (c) Ensuring that the investments made by the InvIT are in accordance with the InvIT Regulations and the investment strategy of the InvIT;
- (d) Appointing various intermediaries with respect to the activities of the InvIT, in consultation with the Trustee, in a timely manner;
- (e) Ensuring adequate and timely redressal of all Unitholders' grievance pertaining to activities of the InvIT; and

- (f) Undertaking all such other activities delegated to it by the Trustee in terms of the Investment Management Agreement.

7. Who is a Project Manager? What are the eligibility requirements for a Project Manager?

The Project Manager is responsible for achieving the execution or management of the infrastructure project. In respect of PPP, the Project Manager should be the entity responsible for execution of infrastructure projects and achievement of project milestones in accordance with the concession agreement or other relevant project documents.

For any entity to act as the Project Manager, it should be identified in the registration application and the Draft Offer Document or the Placement Memorandum, as applicable.

8. What are the duties, roles and responsibilities of a Project Manager?

The duties, roles and responsibilities of the Project Manager include:

- (a) Undertaking operations and management of the InvIT Assets, including making arrangements for appropriate maintenance, including appointment and supervision of appropriate agents; and
- (b) Discharging the obligations in respect of achieving timely completion of the infrastructure project including the implementation, operation, maintenance and management of the infrastructure project.

9. Who are the other key intermediaries involved in the operation of an InvIT?

The other key intermediaries involved in the operation of an InvIT are the, Valuers and Auditors.

10. Who is a Valuer? What are the eligibility requirements of a Valuer?

A Valuer may be any person, who is either a “registered valuer” under Section 247 of the Companies Act, 2013 (subject to being notified by the Ministry of Corporate Affairs), or as defined under the InvIT Regulations, and appointed by the Investment Manager, to undertake both financial and technical valuation of the InvIT Assets, in accordance with the InvIT Regulations.

The Valuer should not be a associate of the Sponsor or the Investment Manager or the Trustee, and should have at least five years experience in valuation of infrastructure assets.

Under the extant InvIT Regulations, for the purposes of financial valuation, the following entities can act as a Valuer to an InvIT: (i) a chartered accountant, (ii) a company secretary, (iii) a cost accountant who is in whole-time practice, (iv) retired member of Indian Corporate Law Service, (v) any person holding equivalent Indian or foreign qualification (acquired by an Indian citizen) as the Ministry of Corporate Affairs may recognize by an order, or (vi) a merchant banker registered with SEBI, and who has in his employment person(s) having minimum five years’ continuous experience after acquiring membership of such institutions, in accordance with the InvIT Regulations to carry out valuation.

A Valuer in respect of technical asset valuation should be a member of certain prescribed institutions, which include (i) Institution of Valuers, or (ii) Institution of Surveyors (Valuation Branch), possessing such experience and expertise as specified under the InvIT Regulations.

11. What are the duties, roles and responsibilities of a Valuer?

The duties, roles and responsibilities of the Valuer include:

- (a) Ensuring that the valuation of the InvIT Assets is impartial, true and fair in accordance with InvIT Regulations;

- (b) Ensuring adequate and robust internal controls to ensure the integrity of valuation controls; and
- (c) Disclosing to the InvIT, any pending business transactions, contracts under negotiation and other arrangements with the Investment Manager or any other party whom the InvIT is contracting with and any other factors that may interfere with the Valuer's ability to provide an independent and professional valuation.

12. Who is an Auditor? What are the eligibility requirements of an Auditor?

The Auditor should be appointed by the Investment Manager, for a period of not more than five consecutive years. The Auditor (other than an individual) may be further reappointed for another five consecutive years, subject to Unitholders, approval in accordance with InvIT Regulations. The audit of the InvIT's financial statements should be conducted at least once every year.

The Auditor audits and delivers a report on the InvIT's financial statements for inclusion in the Draft Offer Document, Offer Document and Final Offer Document, or the placement memorandum, as applicable. The report includes audited financial statements prepared in accordance with applicable accounting and auditing standards. The Auditor is also required to subject itself to the peer review process of the ICAI and hold a valid certificate issued by the Peer Review Board of ICAI. The Auditor is required to certify certain forward looking projections including the assumptions, of the InvIT Assets that are owned or proposed to be owned by the InvIT, in accordance with InvIT Regulations.

The Auditor prepares a statement of special tax benefits, which is available to the InvIT and its Unitholders.

Further, market practice also requires the Auditor to deliver "comfort letter" to the Merchant Bankers to the Issue at various stages in the Issue process, which relates to "negative assurances" or changes in certain line items after the date of the last audit, and confirmations on the financial data, statements

and other financial and operational data included in Draft Offer Document, Offer Document and Final Offer Document, or the Placement Memorandum, as applicable.

13. What are the duties, roles and responsibilities of an Auditor?

The duties, roles and responsibilities of the Auditor include:

- (a) Conducting audit of the accounts of the InvIT and drafting the audit report based on the examination of such accounts;
- (b) Ensuring that the accounts and the financial statements provide true and fair picture of the state of affairs of the InvIT; and
- (c) Ensuring that the financial statements comply with the applicable accounting standards.

IV. TRANSACTION DOCUMENTS

1. What are the disclosure documents prescribed by SEBI for Issue of Units? Are the disclosure documents subject to prior review by SEBI or any other regulatory authority?

The disclosure documents prescribed by SEBI are as follows:

(a) For a Private placement: A Placement Memorandum.

The process involved in a private placement is evolving and a final Placement Memorandum may be required to be filed.

(b) For a Public offer: Draft Offer Document, Offer Document and Final Offer Document.

The Draft Offer Document is provided to SEBI for review and the public offer is undertaken through an Offer Document and a Final Offer Document.

The Draft Offer Document for a public offer is required to be filed with SEBI at least 30 days prior to filing of the Offer Document with the designated Stock Exchange and SEBI, and should be made available for public comments for at least 21 days. Any comments provided by SEBI on the Draft Offer Document need to be incorporated before filing of the Offer Document. For private placement, there is no requirement for submitting a draft of the Placement Memorandum with any regulatory authority for review.

2. What are various transaction documents?

There are two categories of Transactions Documents that are required for an InvIT, namely, (a) structure related transaction documents; and (b) listing related transaction documents.

(a) Structure related Transaction Documents

These documents relate to setting-up of the InvIT,

allocation of responsibility of various Parties to the InvIT, transfer of the initial portfolio assets to the InvIT by the Sponsor and mechanism for utilizing cash flows of the Project SPVs for distribution to the Unitholders. A brief summary of the structure related transaction documents is set out below:

(i) Trust Deed

Trust Deed is the constitutional document of an InvIT. It is entered into amongst the Sponsor, the InvIT and the Trustee prior to the registration of the InvIT with SEBI. It sets out, amongst other things, the objectives of the InvIT and the powers, functions, duties and responsibilities of the Trustee and the Investment Manager.

A copy of the draft of the Trust Deed is required to be submitted to SEBI along with the application for registration of the InvIT.

(ii) Investment Management Agreement

The Investment Management Agreement is entered into amongst the Trustee, acting on the behalf of the InvIT, and the Investment Manager prior to registration of the InvIT with SEBI. It sets out, amongst other things, powers, functions, duties and responsibilities of an Investment Manager including those prescribed under the InvIT Regulations and those delegated by the Trustee to the Investment Manager in accordance with applicable law.

(iii) Project Implementation and Management Agreement

The Project Implementation and Management Agreement is entered into amongst the Trustee, acting on behalf of the InvIT, the Investment Manager, the Project Manager and the Project SPVs comprising of the InvIT Assets, prior to the registration of the InvIT with SEBI. It sets out, amongst other things, the functions, duties and responsibilities of the Project Manager(s)

including those prescribed under the InvIT Regulations and the concession agreements.

(iv) Shareholders' Agreements

If the InvIT does not hold 100% of the Holdco or the Project SPV, a Shareholders' Agreement is required to be entered into between the InvIT and the shareholders or partners of the Holdco or the Project SPV, as may be applicable, to ensure that the InvIT, the Holdco or the Project SPV(s) are in compliance with InvIT Regulations. This agreement should be entered into, prior to the investment in the Holdco or the Project SPV or both, as may be applicable.

(v) Share Purchase Agreement or Asset Purchase Agreement

The Share Purchase Agreement or the Asset Purchase Agreement is entered into for transferring the Holdco or the Project SPVs comprising the initial portfolio assets from the Sponsor to the Trustee.

The Share Purchase Agreement is entered into amongst the Sponsor, the Trustee, acting on behalf of the InvIT, the Investment Manager (being the confirming party) and the Holdco or if the Project SPVs own the initial portfolio assets, the Project SPVs. The Share Purchase Agreement or the Asset Purchase Agreement is required to be finalized prior to filing the Draft Offer Document. It is executed before filing of the Offer Document or the Placement Memorandum, as applicable and its closing should occur prior to allotment of Units in the public offer or private placement, as applicable.

(vi) Debenture Subscription Agreement or Loan Agreement

The Debenture Subscription Agreement or the Loan Agreement is entered for establishing an

efficient mechanism to upstream cash flows of the Project SPVs to the InvIT. Such cash flows are then utilized to make distribution to the Unitholders in accordance with the InvIT Regulations.

The Debenture Subscription Agreement or the Loan Agreement is entered into amongst the Trustee, acting on behalf of the InvIT, the Investment Manager and the Project SPVs, prior to the filing of the Offer Document or the Placement Memorandum with SEBI.

(vii) Other Agreements

In addition to the agreements set out above, some or all of the following agreements may also be required depending upon the structure of the InvIT and factual assessment of the relationship between the InvIT and the Sponsor:

- *Shared Services Agreement:* A Shared Services Agreement is not a mandated requirement under the InvIT Regulations or essential for setting up and listing an InvIT. It may be entered if the InvIT intends to continue its reliance on the Sponsor for certain services, such as information technology and human resources.

Whilst the Shared Services Agreement needs to be finalized before filing of the Draft Offer Document (in case of a public offer), the execution can be delayed until filing of the Offer Document. In case of listing of Units through a private placement, the Shared Services Agreement (if required) should be executed before filing the Placement Memorandum.

- *Intellectual Property or Name Licensing Agreement:* An Intellectual Property or Name Licensing Agreement is not a mandated requirement under the InvIT Regulations or essential for setting-up and

listing an InvIT. It is only required if the InvIT proposes to utilize any intellectual property of the Sponsor or its group, such as trade name, trademark or logo.

Whilst the Intellectual Property or Name Licensing Agreement needs to be finalized before filing of the Draft Offer Document (in case of a public offer), the execution can be delayed until filing of the Offer Document. In case of listing of Units through a private placement, the Intellectual Property or a Name Licensing Agreement (if required) should be executed before filing the Placement Memorandum.

- ***Non-Compete:*** Such an arrangement may be entered into to restrict the Sponsor from undertaking projects that may be considered as competing by the InvIT.
- ***Deed of right of first offer or refusal:*** Considering the limited life of infrastructure projects, typically right of first offer or refusal is provided by the Sponsor to the InvIT in relation to projects being developed by the Sponsor. Such arrangement allows the InvIT access to a pipeline of assets to ensure continued existence of the InvIT. It also ensures that a particular Sponsor does not set-up competing InvITs with similar or same class of assets.

The deed of right of first offer or refusal is entered into amongst the Sponsor and the Trustee, acting on behalf of the InvIT, and the Investment Manager.

(b) Listing related Transaction Documents

(i) *Issue Agreement*

The Issue Agreement is entered into amongst the Merchant Bankers, the Sponsor, the Investment

Manager and the Trustee acting on behalf of the InvIT, prior to the filing of the Final Offer Document. It sets out, amongst other things, the roles and responsibilities of the Merchant Bankers, the conditions precedent to the Merchant Banker's obligations, representation and warranties from the Trustee, the Investment Manager and the Merchant Bankers, details of the indemnity provided by the Investment Manager and the Trustee to the Merchant Bankers and provision for termination of the Merchant Bankers' engagement. The obligations of the Merchant Bankers are several and not joint. The fee arrangement is typically governed by an engagement letter entered into between the Investment Manager (on behalf of the InvIT) and each Merchant Banker. If the public offer has an offer for sale component, the selling shareholders are also a party to the Issue Agreement.

The Issue Agreement may not be required under a private placement, if an Underwriting Agreement entered into. For Underwriting Agreement, please see sub-point (e) below.

(ii) Registrar Agreement

The Registrar Agreement is entered into amongst the Investment Manager, the Trustee, acting on behalf of the InvIT and the Registrar to the Issue, whereby the Investment Manager is required to appoint a Registrar to the Issue. This agreement sets forth the rights and obligations of the registrar in the Issue process.

(iii) Advertising Agency Agreement

The Advertising Agency Agreement is entered into amongst the Investment Manager, the Trustee, acting on behalf of the InvIT, the Merchant Bankers and the advertising agency. It sets out the obligations of the advertising agency, the Investment Manager, the Trustee and the

services provided by the advertising agency for advertising and media relations in respect of the InvIT.

A Advertising Agency Agreement may not be required for private placement, as the Merchant Bankers are not required to issue a compliance certificate in relation to news reports.

(iv) Escrow Agreement

The Escrow Agreement sets out the arrangement for collection of application/bid amount from non-ASBA Investors. This agreement is entered into between the Investment Manager, the Trustee (acting on behalf of the InvIT), the Merchant Bankers, the syndicate members, the escrow collection banks and the Registrar to the issue. This agreement also provides for the manner by which the funds in the escrow accounts are transferred to the refund account or the public offer account, as applicable.

(v) Underwriting Agreement

The Underwriting Agreement is entered into amongst the Investment Manager, the Trustee, acting on behalf of the InvIT and the underwriters after determination of the price and allocation of the units of InvIT, but prior to the filing of the Final Offer Document. Under the terms of the Underwriting Agreement, the underwriters agree to ensure payment with respect to the units allocated to Unitholder procured by them and, in the event of any default in payment, the respective underwriter is required to procure purchasers for, or purchase, the Units to the extent of defaulted amount. It also includes among other things, conditions precedent to the individuals' obligations, representations and certain covenants by the Investment Manager and the indemnity provisions.

V. PROCESS FOR ISSUE AND FOR LISTING

1. What is the process for public listing of Units?

Set out below are the indicative steps and process for public listing of Units, which has been divided into six stages:

(a) Pre-filing of the Draft Offer Document

- Appointment of Merchant Bankers and legal counsels
- Kick-off meeting where the senior management provides an overview of the Sponsor and its business to the Merchant Bankers and the legal counsels and the InvIT Timelines are discussed
- Identification of the InvIT Assets, the Trustee, the Investment Manager and the Project Manager
- Preparation of data room
- Commencement of due diligence exercise, simultaneously with commencement of drafting of the Draft Offer Document
- Submission of application (along with draft of the Trust Deed, the Investment Management Agreement and the Project Implementation and Management Agreement) for grant of certification of registration by SEBI
- Receipt of comments, if any from SEBI on the Trust Deed, Investment Management Agreement and Project Implementation and Management Agreement
- Execution of the Trust Deed and Investment Management Agreement
- Receipt of certificate of registration of InvIT from SEBI
- Execution of the Project Implementation and Management Agreement, the structure related transaction documents and the listing related

transaction documents (for details please see *Section IV, Question 2*)

Typically, whilst the agreement for acquisition of initial portfolio of assets (i.e. Share Purchase Agreement or Asset Purchase Agreement) will be executed prior to the filing of the Draft Offer Document, the closing of the transaction would occur subsequently, before allotment of Units. Similarly, typically the closing of Debenture Subscription Agreement or Loan Agreement between the InvIT and Project SPVs would occur after receipt of final listing and trading approval for the Units.

(b) Filing of the Draft Offer Document

- Execution of the Issue Agreement
- Execution of the standard certificates are provided by the Trustee, the Investment Manager and the Sponsor and executed comfort letter is provided by the auditors
- Filing of the Draft Offer Document with SEBI along with due diligence certificate by the Merchant Bankers
- Filing of application with the Stock Exchanges for grant of in-principle approval for listing and trading of the Units

(c) SEBI review and receipt of final SEBI Observations

- Replying to the interim observations received from SEBI and the Offer Document
- Receipt of final observations from SEBI

(d) Post final SEBI observation and filing of the Offer Document

- Filing reply to final observations received from SEBI along with updated Draft Offer Document
- Receipt of SEBI approval for the updated Draft Offer Document
- Execution of escrow agreement and syndicate agreement

- Execution of updated standard certificates and comfort letter
- Filing of the Offer Document with SEBI and Stock Exchanges and obtaining SEBI's and Stock Exchange's approval

(e) Issue period

- Announcement of the floor price or price band at least five working days before the opening of the Issue opening date
- Opening of the Issue at least five working days after the date of filing of the Offer Document with SEBI
- Opening of the bidding period for subscription by all investors except Anchor Investors
- Closure of the Issue

(f) Post-issue period

- The Registrar to get electronic Bid details from Stock Exchange
- The Investment Manager, in consultation with the Merchant Bankers to determine the Issue price
- Finalization of the Issue price and filing of the Final Offer Document with SEBI and the Stock Exchanges and execution of the underwriting agreement
- The Registrar to submit final basis of allotment to the designated Stock Exchange
- The Registrar and Merchant Bankers to issue funds transfer instructions to collecting banks and SCSBs for credit of funds into the public offer account
- Investment Manager to allot the Units and credit of Units to the successful bidders commence
- The Investment Manager to make listing and trading approval to the Stock Exchanges. Stock Exchanges to provide final listing and trading approvals
- Trading commences

2. What is the process for private placement of Units?

Set out below are the indicative steps and process for a private placement of Units:

(a) Pre-filing of Placement Memorandum

- Appointment of Merchant Bankers and legal counsels
- Kick-off meeting where the senior management provides an overview of the Sponsor and its business to the Merchant Bankers and the legal counsels and the InvIT Timelines are discussed
- Identification of InvIT Assets and the Trustee, the Investment Manager and the Project Manager
- Preparation of data room
- Commencement of due diligence exercise, simultaneously with the commencement of drafting of the Placement Memorandum
- Submission of application (along with draft of the Trust Deed, the Investment Manager Agreement and the Project Implementation and Management Agreement) for grant of certificate of registration by SEBI
- Receipt of comments, if any from SEBI on the Trust Deed, Investment Management Agreement and Project Implementation and Management Agreement
- Execution of the Project Implementation and Management Agreement, the structure related transaction documents and the listing related transaction documents (for details, please see *Section IV, Question 2*)

Typically, whilst the agreement for acquisition of initial portfolio of assets (i.e. Share Purchase Agreement or Asset Purchase Agreement) will be executed prior to the filing of the Placement Memorandum, the closing of the transaction

would occur subsequently, before allotment of Units in the private placement. Similarly, typically the closing of Debenture Subscription Agreement or Loan Agreement between the InvIT and Project SPVs would occur after receipt of final listing and trading approval for the Units.

(b) Filing of Placement Memorandum

- Filing of application with the Stock Exchanges for grant of in-principle approval for listing and trading of Units
- Filing of the Placement Memorandum with SEBI, at least five days prior to the opening of the Issue

(c) Post-filing of the placement memorandum

- Opening and closing of the Issue
- Closing of the Share Purchase Agreement or the Asset Purchase Agreement, as applicable
- Allotment of Units
- Application for, and grant of, final listing and trading approvals
- Listing and commencement of trading of Units on the Stock Exchanges

3. Are the investors categorized? If yes, how are Units allocated amongst different categories?

- (a) Private placement:** Investors are categorized into (i) QIBs; and (ii) bodies corporate, whether Indian or foreign. There are no specific allocation requirements between the said categories of investors.
- (b) Public offer:** Investors are categorized into: (i) Institutional Investors and (ii) other investors. The allocation in the public offer shall be made as follows:
- (i) Not more than 75% to Institutional Investors; and
 - (ii) Not less than 25% to other investors.

4. Who are Institutional Investors?

An Institutional Investor includes:

- (a) a QIB; and
- (b) a family trust or systematically important NBFCs registered with the Reserve Bank of India or intermediaries registered with SEBI, all with net-worth of more than ₹ 5000 million, as per the last audited financial statements.

5. Are there any restrictions on Institutional Investors from investing in the units of a InvITs?

All Institutional Investors may invest in a public issue of Units of an InvIT subject to certain restrictions. Certain categories of Institutional Investors, such as (i) insurance companies registered with the Insurance Regulatory and Development Authority; and (ii) scheduled commercial banks, may be restricted from investing in such Units since the extant provisions of the law governing such Institutional Investors do not permit investment in securities such as the Units of an InvIT. However, this is likely to be remedied soon.

6. Who are Anchor Investors?

- (a) In terms of the Issue, 75% of the Issue shall be available for allocation to Institutional Investors on a proportionate basis. The Investment Manager, in consultation with the Merchant Bankers, may allocate up to 60% of the Institutional Investor portion to Anchor Investors.
- (b) A Strategic Investor shall also be included in the category of Anchor Investors.
- (c) An Anchor Investor shall make an application of a value of at least ₹ 100 million in the public offer. In case of Strategic Investors, the application value shall be subject to the threshold mentioned under the InvIT Regulations.
- (d) Allocation to Anchor Investors shall be on a discretionary basis and subject to the following:

- (i) minimum of 2 Anchor Investors for allocation up to ₹2,500 million; and
 - (ii). minimum of 5 Anchor Investors for allocation of more than ₹2,500 million.
- (e) If the price fixed as a result of book building is higher than the price at which the allocation is made to Anchor Investors, the Anchor Investor shall bring in the additional amount within two days of the date of closure of the Issue. However, if the price fixed as a result of book building is lower than the price at which the allocation is made to Anchor Investors, the excess amount shall not be refunded to the Anchor Investor and the Anchor Investor shall take allotment at the price at which allocation was made to it.
- (f) Neither the Merchant Bankers nor any person related to the Merchant Bankers in the concerned public offer can apply under Anchor Investor category except mutual funds, insurance companies and pension funds.

7. What is a ‘confirmation of allocation note’?

Confirmation of allocation note or the CAN is the advice or intimation of allocation of Units of the InvIT sent to the Anchor Investors who have been allotted Units upon finalization of the basis of allotment. The CAN is not a statutory requirement; however, it is used to confirm the sales by the Syndicate Members.

8. What are the methods of pricing of Units?

Pricing of Units is typically undertaken through the book building process. Arguably, fixed pricing, under which the price of Units is fixed by the Investment Manager in consultation with the Merchant Bankers, may also be undertaken.

9. What is book building?

The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, defines ‘book building’ as a process undertaken to determine the demand, and to assess the price for determination of the quantum or value of Units proposed to be issued by the InvIT.

10. How are bids collected in book building?

During the specified period, investors submit a Bid cum application form to the SCSBs, Syndicate Members, Registered Brokers, CDPs and RTAs, indicating the number of Units and the price within the price band at which they wish to subscribe to the Units of the InvIT.

Each bid cum application form gives the Bidder the choice to Bid for Units at three optional prices within the price band and specify the number of Units Bid for against each such price.

Bid amounts collected are deposited in the escrow account in terms of the escrow agreement or in case of ASBA bids, an amount equivalent to the Bid amount will be blocked by the SCSBs in the bank account specified in the bid cum application form.

The SCSBs, Syndicate Members or brokers enter such Bid option of each Bidder into the electronic bidding system as a separate Bid.

After determination of the price, the maximum number of units Bid for by a Bidder at or above the price is considered for allocation and the rest of the Bids, irrespective of the Bid price, are automatically rejected.

11. Who fixes the price of Units in an Issue?

After Issue Closing Date, the Investment Manager, on behalf of the InvIT in consultation with the Merchant Bankers may fix the price of units and the number of Units to be allotted to each category of investors.

12. When is the allotment of Units completed in case of a public offer?

The allotment of Units and their listing on Stock Exchanges should be completed within 12 Working Days of the Issue Closing Date.

13. When is the allotment of Units completed in case of a private placement?

Under the InvIT Regulations, no particular timeline has been

provided for allotment of Units under a private placement. However, the Units of the InvIT shall be mandatorily listed on the designated Stock Exchange within 30 Working Days from the date of allotment.

Typically, the allotment of Units should be completed within 12 Working Days of the Issue Closing Date.

14 What are the lock-in requirements?

In terms of the InvIT Regulations, lock-in requirements are of three types: (i) that which applies to the Sponsor of the InvIT; (ii) that which applies to all Unitholders holding units of the InvIT prior to the initial offer (including the unit holding of the Sponsor exceeding minimum lock-in requirement); and (iii) that which applies to Anchor Investors and Strategic Investors in public offers

15. What are the lock-in requirements applicable to the Sponsor of the InvIT?

In terms of the InvIT Regulations, the Sponsors are collectively required to hold at least 15% of the total Units (on a post public offer or post private placement basis) for a period of three years from the date of listing of Units. This is, however, subject to the conditions that:

- (a) the Sponsor shall be liable for all acts, commissions and representations/covenants of the InvIT related to its formation and transfer of the initial portfolio of assets by the Sponsor to the InvIT. Further, the InvIT and the Trustee shall also have recourse against the Sponsor in this regard; and
- (b) either the Sponsor or one of its associates shall be the Project Manager and shall continue to be so for a period of three years from listing of Units, unless replaced by the Unitholders.

If the above condition number (b) is not met, or is not proposed to be met, the Sponsor shall have to collectively hold at least 25% of the total Units (on a post public offer or post private placement basis) for a period of three years from the date of listing of Units.

Moreover, any units held by the Sponsors in excess of 15% or 25% (as applicable) shall be locked in for a period of one year from listing of Units.

16. What are the lock-in requirements applicable to any person other than Sponsor who has been holding Units of the InvIT prior to the initial offer?

The lock-in requirement for any person other than the Sponsor who has been holding Units of the InvIT prior to initial offer is one year from the date of listing of the Units.

Additionally, Units allotted to Anchor Investors are required to be locked in for a period of 30 days from the date of allotment in the public offer. Further, the Units allotted to Strategic Investors, are required to be locked in for a period of one year from the date of allotment in the public offer.

VI. DISCLOSURE REQUIREMENTS

1. What are the disclosure standards applicable in India?

Disclosure standards in India for the offer documents and Placement Memorandums issued by InvITs are substantially at par with other securities markets in the world. Presently, the disclosure requirements are governed by the InvIT Regulations, and the InvIT Guidelines, in case of public offer of InvITs. However, they are continuing to evolve based on, amongst other things, regulatory evaluation and stakeholders (including prospective investors) feedback.

In this respect, the key governing principle under the InvIT Regulations is that all disclosures made in the offer documents and placement memorandums must contain material, true, fair and adequate to enable the investors to make a well informed decision. Additionally, the offer documents or the Placement Memorandum should not: (i) be misleading or contain any mis-statements; or (ii) guarantee returns to the investors.

2. What are the key areas of disclosures in offer documents and placement memorandums?

In addition to the customary key areas such as the business and industry overview of the InvIT, risk factors (internal and external to the InvIT), financial statements and projections of the InvIT, management's discussion and analysis of financial condition and results of operation, other key disclosure requirements under the InvIT Regulations include:

- (a) Comprehensive details pertaining to the Sponsor, Investment Manager, Project Manager, Trustee and other parties.
- (b) Brief background of the InvIT, including, the InvIT structure and description and details of the InvIT Assets or of any arrangement pertaining to the underlying InvIT Assets.

- (c) Capital structure of the InvIT assets including any borrowing or deferred payments and the borrowing policies.
- (d) Details of any related party transactions along with the procedure for dealing with such transactions.
- (e) Disclosures on title of the InvIT Assets including any material litigations pertaining to the InvIT Assets.
- (f) Disclosures on the status of approvals with respect to the InvIT Assets and approvals periodically required for the InvIT Assets.
- (g) Details of material litigations and regulatory actions which are pending against the InvIT, the Sponsor, the Investment Manager, the Project Manager and their respective associates and the Trustee, as specified.
- (h) Comprehensive details on the rights of Unitholders.
- (i) Full valuation report, auditors report and any sector-specific report.

3. What are the disclosure requirements for the objects for which the Issue is proposed?

The InvIT Regulations do not prescribe detailed requirements for disclosures related to objects. Listed trust structures typically utilize issue proceeds for payment of consideration for acquisition of the initial portfolio of assets and infusing debt into the Project SPVs. Such Project SPVs utilize the infused debt to pare down external lending. InvIT are expected to frame similar use of proceeds and would accordingly need to include disclosures regarding consideration for acquisition of the initial portfolio of assets and details of external loans that would be repaid or pre-paid by the Project SPVs.

4. **What are the disclosure requirements for the directors and key managerial personnel of the Sponsor(s), the Investment Manager and the Trustee?**

The InvIT Regulations do not specify any disclosure requirement in relation to directors and key managerial personnel of the Sponsor and the Project Manager.

In relation to the Trustee and the Investment Manager, the following details are required to be disclosed:

- (a) *Trustee*: Names and profiles of the directors.
- (b) *Investment Manager*: Brief profiles of directors of the Investment Manager and the units held or proposed to be held by them in InvIT.

5. **What are the litigation related disclosures in offer documents and placement memorandums?**

The litigation related disclosures in offer documents and placement memorandums pertaining to the Parties to the InvIT, the InvIT and the InvIT Assets are as follows:

- (a) Details of any material litigations pertaining to the InvIT Assets.
- (b) Brief description of material litigation and regulatory actions pending against the InvIT and its associates, if any, in the last five years.
- (c) Brief description of material litigation and regulatory actions pending against the Sponsor and its associates, if any, in the last five years.
- (d) Brief description of material litigation and regulatory actions pending against the Investment Manager and its associates, if any, in the last five years.
- (e) Brief description of material litigation and regulatory actions pending against the Project Manager and its associates, if any, in the last five years.

- (f) Brief description of material litigation and regulatory actions pending against the Trustee, if any, in the last five years.

6. What financial statements are to be included in offer documents and placement memorandums?

In terms of the InvIT Regulations, offer documents and placement memorandums are required to include financial information for a period of last three completed financial years. If the closing date of the last completed financial year is more than six months before the date of offer document or placement memorandum, the InvIT is also required to disclose interim financial information.

If an InvIT is already in existence for the last three completed financial years, its historical financial statements on both, standalone and consolidated basis are required to be disclosed. However, where an InvIT is in existence for less than three years, combined financial statements of the InvIT are required to be disclosed. The consolidated or combined financial statements, as applicable should be prepared in accordance with Indian Accounting Standards.

Further, projections of revenue and operating cash flows of the InvIT are also required to be disclosed in the offer documents and Placement Memorandum (along with related assumptions and as certified by the InvIT's Auditors) for a period of next three years.

Additionally, the summary financial statements of the Investment Manager and the Sponsor for the previous three years are required to be disclosed.

7. What are the disclosure requirements in respect of valuation of an InvIT?

A full valuation report should be attached to the offer documents and Placement Memorandum. Further, a summary of the valuation report, valuation methodology, and frequency of valuation and declaration of NAV should also be

disclosed in the offer documents and the Placement Memorandum.

The InvIT Regulations also specify minimum mandatory disclosures that should be included in valuation reports.

8. What are the consequences of misstatements in offer documents and placement memorandums?

Any misstatements in the offer documents and the placement memorandum are considered as a contravention by the Investment Manager, the Sponsor and the Merchant Bankers of the InvIT Regulations and InvIT Guidelines, and they may be liable for one more actions specified therein, including any action provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

9. What role does SEBI play in relation to misstatements?

As per the InvIT Regulations, an InvIT or Parties to the InvIT or any other person involved in the activity of the InvIT who contravene the SEBI Act or the InvIT Regulations or the InvIT Guidelines, notifications or instructions issued there under, shall be liable for one or more actions specified therein. Further, in terms of the SEBI Act, penalty proceedings can also be initiated by SEBI with regard to any of the contraventions specified above.

10. What is the liability of intermediaries associated with an initial public offering or private placement of Units for misstatements and omissions in the offer documents or Placement memorandum, as applicable?

In a Public Offer, the Merchant Bankers, are required (under the InvIT Regulations) to submit a due diligence certificate to SEBI at various stages of the listing process with respect to the contents therein and could therefore be held liable by SEBI.

Moreover, the responsibility of the Merchant Bankers with respect to due diligence shall continue even after the completion of the Issue process.

Separately, all intermediaries can be held liable under the applicable SEBI regulations under which they are registered with SEBI.

The InvIT Regulations further provide that any contravention of any provisions of any of these regulations or guidelines or circulations thereof, issued by SEBI, by the intermediaries, shall be liable for one or more actions as specified therein and any action provided under the Securities and Exchange Board of India (Intermediaries) Regulation, 2008 and the Merchant Banker Regulations.

11. Can private action be initiated for misstatements?

Yes, any person or group of persons which have sustained any loss or damage due to misstatements in offer documents and placement memorandums or fraudulent conduct may approach any court with appropriate jurisdiction in order to claim compensation for such loss or damage.

VII. CORPORATE ACTIONS

1. What are the corporate approvals required by the Sponsor, Investment Manager and the Trustee for Issue of Units?

Approval of board of directors of the Sponsor shall be required for setting up an InvIT, appointing the Trustee and filing of the application with SEBI for registration of the InvIT. Approval of the board of directors of the Sponsor and the Investment Manager shall be required for undertaking an Issue of Units of the InvIT. Further, approval of the board of directors (or a duly constituted committee thereof) of the Investment Manager shall be required for various activities related to Issue of Units, such as approval of the Draft Offer Document, the Offer Document and the Final Offer Document, in case of a public issue, or Placement Memorandum, in case of a private placement, and execution of various agreements in relation to the issue. These authorizations will be required at various stages in the transaction, including at the time of making the application to SEBI for registration of the InvIT, filing the Draft Offer Document, the Offer Document and the Final Offer Document, in case of a public issue, or Placement Memorandum, in case of a private placement and listing or allotment of Units on the Stock Exchanges.

2. What are the approvals required for transfer of assets by the Sponsor to the InvIT?

Each Sponsor would require approval from its board of directors for transfer of the initial portfolio of assets. Moreover, depending upon the materiality of the assets being transferred by the Sponsor, shareholders' approval may also be required by the Sponsor. The transfer of the initial portfolio of assets may also require third party approvals, depending upon regulatory restrictions, if any, and contractual arrangements entered into by the Sponsor. Such approvals would include those related to any transfer restrictions applicable to the assets or the Project SPVs, imposed by relevant regulatory

authorities, any restrictions under licenses and approvals applicable to the assets or the Project SPVs, any restrictions under financing agreements and any restrictions imposed by private equity investors, if any, in the Sponsor or the Project SPVs.

3. Are there any specific corporate governance requirements applicable to the InvIT or its Investment Manager?

There are no specific corporate governance requirements applicable to the InvIT. In accordance with the InvIT Regulations, 50% of the board of directors of the Investment Manager should comprise of independent directors and such directors should not be directors or members of the governing body of another InvIT. However, typically the Investment Manager is expected to put in place governance structures to ensure independent decision making, which is in the best interest of all Unitholders, and to address any conflicts of interest with the Sponsor. These structures include constitution of various committees with majority of independent directors, such as audit committee and investment committee, and implementing policies, such as those covering related party transactions and conflicts of interest.

4. Are there any specific requirements regarding the composition of the board of directors of the Holdco or Project SPVs?

In accordance with the InvIT Regulations, the Investment Manager, in consultation with the Trustee, shall appoint a majority of the board of directors of the Holdco and the Project SPVs.

VIII. CERTAIN POST-ISSUE CONSIDERATIONS

1. What are the distribution requirements applicable to an InvIT?

An InvIT is required to distribute at least 90% of its net distributable cash flows to its Unitholders. Furthermore, the Project SPVs are required to distribute at least 90% of their net distributable cash flows to the InvIT, or, if applicable, the Holdco. In case of a two-tiered structure of an InvIT, the Holdco is required to distribute to the InvIT (i) 100% of the cash flows received by it from the Project SPVs; and (ii) 90% of the net distributable cash flows generated by it.

Such distributions shall be declared and made (i) once every six months in every financial year, in case of publicly offered InvITs; and (ii) once every year in case of privately placed InvITs, and shall be made not later than fifteen days from the date of declaration.

Subject to the above, such distribution shall be in the manner mentioned in the offer document or the Placement Memorandum.

In addition to the periodic distributions specified above, if any infrastructure asset is sold by the InvIT, at least 90% of the proceeds of such sale are required to be distributed to the Unitholders, unless such proceeds are proposed to be re-invested in other infrastructure assets within a period of one year.

2. What are the reporting requirements applicable to an InvIT?

The reporting requirements applicable to an InvIT are set out under the InvIT Regulations and the Continuous Disclosures Circular, and state that the Investment Manager shall (i) submit an annual report to Unitholders and to the designated Stock Exchanges; and (ii) submit a half-yearly report to the

designated Stock Exchanges. Such annual and half yearly reports shall contain disclosures as specified under the InvIT Regulations, including a brief report of activities of the InvIT and summary of the audited consolidated financial statements for the year of the InvIT.

The InvIT is required to submit to the designated Stock Exchanges (i) the financial information for the first half year period of the financial year; (ii) the annual financial information; and (iii) the financial information for the second half year period of the financial year, which should be submitted along with the annual financial information.

The financial information of the InvIT should be disclosed on both standalone as well as a consolidated basis. The annual financial information should contain comparative information for the immediately preceding year and the half yearly financial information should contain comparative information for the (i) immediately preceding half year; and (ii) corresponding half year in the immediately preceding financial year.

In addition to certain key financial statements that need to be disclosed by the InvIT, such as the balance sheet, statement of profit and loss, statement of net assets at fair value and statement of changes in Unitholders' equity, the InvIT is also required to disclose, *inter alia*, (i) statement of net distributable cash flows of the InvIT as well as of the underlying Holdcos and the Project SPVs; (ii) fees paid to the Investment Manager and the Project Manager and whether there have been any material change in the fees paid; (iii) if the InvIT holds assets in more than one infrastructure sector or sub-sector, details of investments made by the InvIT in all such infrastructure sectors and sub-sectors; (iv) changes in accounting policies of the InvIT; (v) statement of earning per Unit; and (vi) statement of related party transactions.

Further, the Investment Manager shall disclose to the designated Stock Exchanges, any information having bearing on the operation or performance of the InvIT as well as price sensitive information, such as details of any borrowing of the Holdco or the Project SPVs or, acquisition or disposal of any assets.

3. Are there any regulations governing insider trading?

All listed companies are required to comply with the Insider Trading Regulations with respect to treatment of price sensitive information. Accordingly, each listed company is also required to formulate the following:

- (a) Code of conduct for regulating, monitoring and reporting of trading by insiders, as defined under the Insider Trading Regulations; and
- (b) Code of practices and procedures for fair disclosure of unpublished price sensitive information.

Similar requirements are expected to be applicable to InvITs.

IX. PUBLICITY AND RESEARCH

Publicity

1. What are the publicity restrictions applicable in India?

The InvIT Regulations and the InvIT Guidelines prescribe publicity restrictions applicable to InvITs.

The publicity restrictions in India are applicable to the InvIT as well as certain persons, as set out in *Section IX, Question 2*. These publicity restrictions include the following:

- (a) All public communications should only contain factual information and should not contain conjectures or any matter extraneous to the contents of the Draft Offer Document, the Offer Document and the Final Offer Document, in case of a public issue, or Placement Memorandum, in case of a private placement;
- (b) No interviews with the media should be scheduled, nor any responses should be made to queries from the media, without consulting the legal counsels;
- (c) In case of any previously scheduled interviews, no information regarding the Issue should be discussed;
- (d) All advertisements issued by the InvIT from the period of filing the Draft Offer Document until the listing of the Units have to contain prescribed disclaimers informing the public about the Issue;
- (e) Factual information about the business of the InvIT may be answered over unsolicited telephone inquiries from the press, consistent with past practice, but any statements concerning the proposed Issue should be avoided;
- (f) One-on-one meetings with investors, especially at conferences should not be conducted;
- (g) There should not be participation in the preparation and distribution of research reports or analysis;

- (h) It should be ensured that there is no mention of the Issue in any form on their websites; and
- (i) All information on their websites should be consistent with the disclosures in the Draft Offer Document, the Offer Document and the Final Offer Document, in case of a public issue, or Placement Memorandum, in case of a private placement.

Additionally, no advertisement in relation to the Issue shall be issued by an InvIT, which is proposing to make a private placement of Units.

2. To whom are the publicity restrictions applicable?

Publicity restrictions are applicable to the InvIT, the Sponsor, Investment Manager, Trustee, Project Manager and their respective directors, subsidiaries, holding companies, Associates of the InvIT and persons acting on their behalf, including public relations, marketing or advertising agencies and financial advisors.

3. What are the periods during which the publicity restrictions become applicable?

The publicity restrictions are applicable in relation to a public offer by an InvIT from the date of the meeting of the board of directors of the Sponsor or the Investment Manager approving the public offer or the date of registration of the InvIT with SEBI, whichever is earlier. The publicity restrictions would continue to be applicable up to the date of allotment of Units being offered or issued in the public issue.

4. What are the various advertisements that are required to be released in a public issue of Units?

The various advertisements that are required to be released in the public issue of Units are:

- (a) The pre-Issue advertisement, which is required to be published post filing of the Offer Document with SEBI

and the Stock Exchanges and prior to the Issue Opening Date;

- (b) The price band advertisement, which is required to be published at least five working days before the Issue Opening Date; and
- (c) The public issue opening advertisement, which may be published prior to the Issue Opening Date;
- (d) The public issue closing advertisement which may be published prior to the Issue Closing Date; and
- (e) The basis of allotment advertisement which is required to be published within ten days from date of completion of activities in relation to the Issue and prior to listing of the Units.

Research

1. Are there any laws applicable to research analysts?

Yes, the Research Analyst Regulations, are applicable to research analysts and primarily govern the preparation and dissemination of research reports in relation to public issue of Units by an InvIT.

2. To whom are the Research Analysts regulations applicable?

The Research Analyst Regulations are applicable to:

- (a) the InvIT;
- (b) the Sponsor, Investment Manager, Trustee and Project Manager of the InvIT, as well as their respective directors and Associates;
- (c) Associates of the InvIT;
- (d) all persons acting on behalf of the InvIT; and
- (e) the Merchant Bankers, Connected Analysts, Syndicate Members and their respective affiliates and Associates.

3. What are the restrictions applicable to research reports?

Certain guidelines and procedures in relation to preparation and distribution of research reports are set forth below:

- (a) The Merchant Bankers or their affiliates should not distribute a research report anywhere in the world if anyone responsible for the preparation of such research report has had access to, or is in possession of, material information (whether or not reflected in the research report) that is not known to the public and will not be included in Draft Offer Document, Offer Document and Final Offer Document, in case of a public issue, or the Placement Memorandum, in case of a private placement.
- (b) The research report should be, and present itself as, an outsider's view of the InvIT and should be independently produced.
- (c) The source of the information shall be clearly acknowledged.
- (d) The research reports should also not contain any valuations or recommendations in relation to the securities of the companies.
- (e) The research reports must not contain any reference to the Issue or any information about the Issue.
- (f) the research reports shall be reviewed by the counsels to the Merchant Bankers prior to their publications.

X. GLOSSARY

Term	Definition
Anchor Investor	A QIB who makes an application for a value more than ₹ 100 million in a book built Issue
Anchor Investor Issue Period	One Working Day prior to the Issue Opening Date, on which Bids by Anchor Investors are to be submitted and allocation to Anchor Investors shall be completed
ASBA	An application, whether physical or electronic, used by ASBA Bidders to make a Bid by authorising an SCSB to block the Bid Amount in the ASBA Account
Auditor	The auditor of the InvIT
Bid	An indication to make an offer during the Issue Period by a Bidder or during the Anchor Investor Issue Period by an Anchor Investor, to subscribe to or purchase Units of the InvIT
Bidder	Any prospective investor, other than an Anchor Investor who makes a Bid in the Issue
Book Building Process	A process undertaken by which a demand for the Units proposed to be issued by the InvIT is elicited and built up and the price for such Units is assessed for the determination of the quantum of such units to be issued by means of a notice, circular, advertisement, document or offer document
Collecting Depository Participant/CDP	A depository participant as defined under the Depositories Act, 1996, registered with SEBI and who is eligible to procure Bids at the designated CDP locations in terms of the circular no. CIR / CFD / POLICYCELL / 11 / 2015 dated November 10, 2015 issued by SEBI
Connected Analysts	A research analyst or research entity that is an affiliate or associate of any of the Merchant Bankers

Continuous Disclosures Circular	Circular on continuous disclosures and compliances by InvITs dated November 29, 2016 issued by SEBI
Designated Intermediaries	Syndicate, sub-syndicate/agents, SCSBs, Registered Brokers, CDPs and RTAs, who are authorized to collect ASBA Forms from the ASBA Bidders, in relation to the Issue
Draft Offer Document	A draft offer document, issued in accordance with the InvIT Regulations and filed with SEBI and the Stock Exchanges including any addenda or corrigenda thereto filed with SEBI and the Stock Exchanges
Final Offer Document	Final Offer Document, filed with SEBI and the Stock Exchanges after the Pricing Date in accordance with the InvIT Regulations and the SEBI Guidelines and includes any addenda or corrigenda thereto filed with SEBI and the Stock Exchanges
Holdco or holding company	A company or an LLP (i) in which the InvIT holds or proposes to hold controlling interest and not less than 51% of the equity share capital or interest and which in turn has made investments in other Project SPVs, which ultimately hold the infrastructure assets; (ii) which is not engaged in any other activity other than holding of the underlying Project SPVs, holding of infrastructure projects and any other activities pertaining to and incidental to such holdings.
Institutional Investors	Institutional Investor means: (i) a QIB; or (ii) family trust or systemically important non-banking financial companies registered with the Reserve Bank of India or intermediaries registered with SEBI, all with net-worth of more than ₹ 5,000 million, as per the last audited financial statements
Investment Manager	A company, a body corporate or an LLP which manages the InvIT Assets, manages the investments of the InvIT and such other activities as specified under the InvIT Regulations

Investment Management Agreement	Investment management agreement entered into between the Trustee (on behalf of the InvIT) and the Investment Manager
InvIT(s)	Infrastructure Investment Trust(s)
InvIT Assets	The assets owned by an InvIT, whether directly or through a Holdco or Project SPVs or both, and includes all rights, interests and benefits arising from and incidental to the ownership of such assets
InvIT Guidelines	The Guidelines for Public Issue of Units of InvITs issued by SEBI through a circular bearing number CIR/IMD/DF/55/2016, dated May 11, 2016
InvIT Regulations	The Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014, including any amendments guidelines and circulars issued by SEBI from time to time
Issue	The issue of the Units of an InvIT
Issue Closing Date	Except in relation to any Bids received from the Anchor Investors, the date after which the Designated Intermediaries will not accept any Bids
Issue Opening Date	Except in relation to any Bids received from the Anchor Investors, the date on which the Designated Intermediaries shall start accepting Bids
Issue Period	Period between the Issue Opening Date and the Issue Closing Date, inclusive of both days, during which Bidders, other than Anchor Investors, can submit their Bids, including any revisions thereof
LLP	A limited liability partnership as defined under the Limited Liability Partnership Act, 2008
Members of the Syndicate	The Merchant Bankers and the Syndicate Members

Merchant Banker	Merchant bankers, associated with the Issue and responsible for due diligence and other Issue related activities
Merchant Banker Regulations	The Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992
NAV	The value of the InvIT (assets reduced by extended debt) divided by the number of outstanding units, on a particular date
Offer Document	An offer document issued in accordance with the provisions of the InvIT Regulations and the InvIT Guidelines, including any addenda or corrigenda thereto filed with SEBI and the Stock Exchanges
Parties to the InvIT	The Sponsor, the Trustee, the Investment Manager and the Project Manager
Placement Memorandum	A document filed with SEBI and the Stock Exchanges for a privately placement undertaken by an InvIT
PPP	Public-private partnership
Project Implementation and Management Agreement	Project Implementation and Management Agreement entered into between the Trustee (acting on behalf of the InvIT), the Investment Manager, the Project Manager and the Project SPVs
Project Manager	A person designated as the project manager of the InvIT, responsible for execution and management of the project.
Project SPVs	A company or an LLP in which either the InvIT or the Holdco holds or proposes to hold controlling interest and not less than 51% of the equity share capital or interest. However, in case of PPP Projects where such acquiring or holding is disallowed by government or regulatory provisions under the concession agreement or such other agreement, this clause shall not apply and shall be subject to provisions of the InvIT Regulations. It also includes a company or an

	LLP in (i) which hold not less than 99% of its assets directly in infrastructure projects and does not invest in other Project SPVs; and (ii) which is not engaged in any other activity other than activities pertaining to and incidental to the underlying infrastructure projects
QIBs or Qualified Institutional Buyers	Qualified institutional buyers shall mean (I) a mutual fund, venture capital fund, alternative investment fund and foreign venture capital investor registered with SEBI, (ii) a foreign portfolio investor, other than Category III foreign portfolio investor, registered with SEBI, (iii) a public financial institution as defined in section 2(72) of the Companies Act, 2013, (iv) a scheduled commercial bank, (v) a multilateral and bilateral development financial institution, (vi) a state industrial development corporation, (vii) an insurance company registered with the IRDAI, (viii) a provident fund with minimum corpus of ₹ 250 million, (ix) a pension fund with minimum corpus of ₹ 250 million, (x) National Investment Fund set up by GoI, (xi) insurance funds set up and managed by army, navy or air force of the Union of India, or (xii) insurance funds set up and managed by the Department of Posts, India
Registered Brokers	Stock Brokers registered with the stock exchanges having nationwide terminals, other than the Members of the Syndicate, eligible to procure Bids in terms of Circular No. CIR/CFD/14/2012 dated October 4, 2012 issued by SEBI
Registrar	A registrar to the issue registered under the Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993
Registrar and Transfer Agents or RTAs	Registrar and transfer agents registered with SEBI and eligible to procure Bids at the

	designated RTA locations in terms of circular no. CIR/CFD/POLICYCELL/11/2015 dated November 10, 2015 issued by SEBI
Registration Act	The Registration Act, 1908
ROFO	Right of first offer
SCRA	The Securities and Exchange Board of India Securities (Contracts) Regulation Act, 1956, as amended from time to time
SEBI	The Securities and Exchange Board of India
SEBI Debenture Trustee Regulations	The Securities and Exchange Board of India (Debenture Trustee) Regulations, 1993, as amended from time to time
SEBI Intermediaries Regulations	The Securities and Exchange Board of India (Intermediaries) Regulations, 2008
SEBI Research Analyst Regulations	The Securities and Exchange Board of India (Research Analysts) Regulations, 2014, as amended from time to time
Self Certified Syndicate Bank/SCSB	Banks registered with SEBI, offering services in relation to ASBA, a list of which is available on the website of SEBI at http://www.sebi.gov.in/sebiweb/home/list/5/33/0/0/Recognised-Intermediaries and updated from time to time
Sponsor	A company, body corporate or an LLP which sets up the InvIT and is designated as such at the time of making an application for registration of the InvIT
Stock Exchanges	Any stock exchange where the Units of an InvIT are proposed to be listed
Strategic Investor	An infrastructure finance company registered with the Reserve Bank of India, a scheduled commercial bank, an international multilateral financial institution, a systematically important non banking financial companies registered with the Reserve Bank of India and foreign portfolio investors. These investors together shall invest not less than five per cent of the total offer size of the InvIT or such amount as may be specified by SEBI from time to time

Syndicate Members	Intermediaries, registered with SEBI who are permitted to carry out activities as an Underwriter
Transaction Documents	Documents, including but not limited to agreements, entered into by or on behalf of the InvIT
Trust Deed	A trust deed entered into between the InvIT, Sponsor and the Trustee
Trustee	A trustee is a person who holds the InvIT Assets for the benefit of the Unitholders and is registered with SEBI under the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993
Trusts Act	The Indian Trusts Act, 1882
Unit	A unit represents beneficial interest in the InvIT, and such Units together represent the entire beneficial interest in the InvIT
Unitholder(s)	Any person who holds Units of the InvIT
Valuer	A valuer as defined under the InvIT Regulations
Working Day	Working Day, with reference to (a) announcement of Price Band; and (b) Bid/Issue Period, shall mean all days, excluding Saturdays, Sundays and public holidays, on which commercial banks in Mumbai are open for business; and (c) the time period between the Bid/ Issue Closing Date and the listing of the Equity Shares on the Stock Exchanges, shall mean all trading days of Stock Exchanges, excluding Sundays and bank holidays, as per the SEBI Circular SEBI/HO/CFD/DIL/CIR/P/2016/26 dated January 21, 2016

C. Real Estate Investment Trusts

I. INTRODUCTION

1. What is a REIT?

A REIT or a real estate investment trust is an investment vehicle set up as trust under the Trusts Act and registered under the Registration Act. In accordance with the Trusts Act, a trust is an obligation attached to the ownership of property. The obligation is created by the author of the trust, accepted by the owner of property and owed to the beneficiaries identified in the Trust Deed. In the context of a REIT, the trust is created by the Sponsor, the ownership of the property vests in the REIT and the beneficiaries are the Unitholders of the REIT.

A REIT can only invest in real estate properties located in India either directly or through HoldCos or SPVs, with at least 80% of the value of the REIT Assets being invested in completed and rent generating properties within the framework provided under the REIT Regulations.

For the purposes of the REIT Regulations, 'real estate' includes land and any permanently attached improvements to it whether leasehold or freehold but excludes mortgage. Assets falling under the purview of 'infrastructure' are not considered as 'real estate' for the purposes of the REIT Regulations, though exceptions have been made with respect to (i) hotels, hospitals and convention centers forming part of composite real estate projects, whether rent generating or income generating; and (ii) common infrastructure for composite real estate projects, industrial parks and SEZs.

2. What are the key laws applicable to REITs?

The key laws applicable to REITs include the REIT Regulations, the REIT Guidelines, the Trusts Act, the Registration Act, the FEMA and the Income Tax Act, 1961.

3. Who are the parties to a REIT?

The parties to a REIT are the Sponsor, the Sponsor Group, the Trustee and the Manager, each with distinct duties, roles and responsibilities.

4. What are the various intermediaries involved in a public issue of a REIT?

The following intermediaries will be typically appointed for a public issue of a REIT:

(a) *Merchant Bankers*

The Manager is required to appoint at least one or more Merchant Bankers, registered under the Merchant Bankers Regulations, and at least one of them is required to be the lead Merchant Banker. The REIT is permitted to file the Draft Offer Document only through a Merchant Banker.

The Merchant Bankers are expected to exercise due diligence with respect to the disclosures made in the offer documents and are required to submit a due diligence certificate with SEBI at the following stages:

- (i) at the time of filing the Draft Offer Document with SEBI;
- (ii) at the time of filing the Offer Document with SEBI and the Stock Exchanges;
- (iii) immediately before opening of the Issue; and
- (iv) at the time of submission of the final post-Issue report with SEBI.

Further, the Merchant Bankers advise the REIT and Parties to the REIT on the appointment of other intermediaries.

The Merchant Bankers liaise with SEBI and the Stock Exchanges throughout the listing process, including receiving final observations from SEBI and receiving in-principle and final listing approvals from the Stock

Exchanges. The Merchant Bankers also assist with co-ordinating road shows for marketing of the public issue.

The Merchant Bankers also have certain post-Issue obligations such as filing of monitoring reports with SEBI, redressal of investor grievances including those in relation to refund, allotments, dispatches and payment of interest to applicants.

(b) Registrar

The Registrar in a public issue of units, is required to:

- (i) accept application forms from bidders in the public Issue;
- (ii) process application forms received from Syndicate Members or SCSBs;
- (iii) co-ordinate the process for allotment of Units of the REIT;
- (iv) coordinate the process for refund of subscription amounts where the Units are not allotted to the applicants; and
- (v) accurately maintain physical and electronic bid data for bids received, including maintaining a record of application forms received.

(c) Syndicate Members

Syndicate members collect application forms from applicants during the Issue period, and enter details into the electronic bidding system on the Stock Exchanges and undertake preliminary verification prior to sending the application forms to the Registrar of the Issue.

(d) Public Issue Banks

Public issue banks are banks with whom the public issue accounts are opened for the collection of application money from the escrow account and ASBA accounts.

(e) Escrow Collection Banks

An escrow collection bank acts as an escrow agent in relation to the application money received as a part of the public issue from non-ASBA bidders. The escrow account is opened for collecting the application money

received from non-ASBA bidders. An Escrow Collection Bank also handles refunds of excess amounts received from non-ASBA bidders.

(f) SCSBs, Registered Brokers, RTAs and CDPs

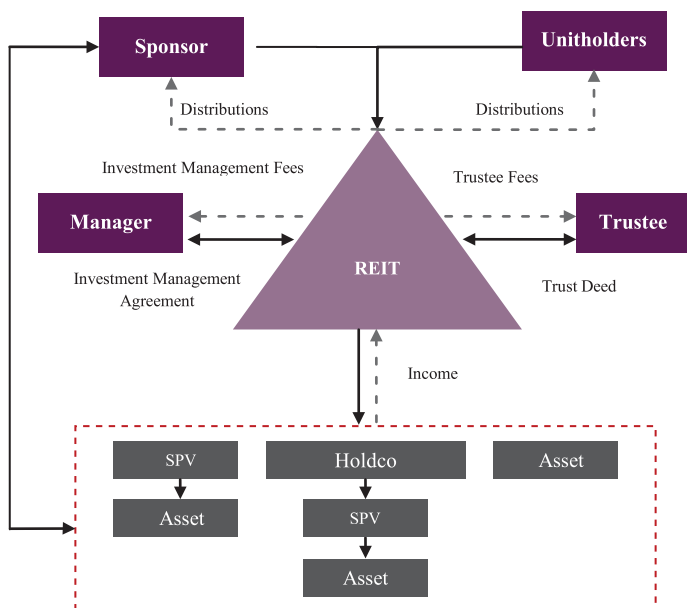
SCSBs or Registered Brokers or Registrar and Share Transfer Agents or Collecting Depository Participants collect application forms from bidders, during the Issue period and enter details into the electronic bidding system on the Stock Exchange and undertake preliminary verification prior to sending the application forms to the Registrar.

(g) Advertising agency

In respect of a public Issue, an advertising agency is responsible for publicity, undertaking public relation activities and providing requisite information to the Merchant Bankers to enable them to submit a compliance certificate with SEBI as specified under the REIT Guidelines.

5. What is the typical structure of a REIT?

Set out below is the typical structure of a REIT:



6. Is there a mandatory listing requirement under the REIT Regulations?

The REIT Regulations mandate that a REIT must undertake an initial public offering of its Units within 3 years of receipt of its certificate of registration from SEBI. A REIT which fails to do so would be required to surrender its certificate of registration and cease to operate as a REIT.

7. How is the residential status of a REIT determined from a FEMA perspective?

If either the Sponsor or the Manager is foreign owned or controlled, the REIT will be categorized as a foreign owned and controlled investment vehicle from a FEMA perspective. Downstream investments by such a REIT shall have to comply with the investment conditions as per the extant foreign exchange regulations.

8. What is the process for registration of a REIT?

The process for registration of a REIT comprises of the following steps:

- (i) Identification and appointment of the Trustee by the Sponsor;
- (ii) Formation of a trust under the Trusts Act and registration of the same under the Registration Act by the Sponsor;
- (iii) Identification and appointment of the Manager by the Sponsor and Trustee;
- (iv) Submission of application by the Sponsor with SEBI for registration of the REIT (in the prescribed format) along with execution versions of the Trust Deed and the Investment Management Agreement. Some of the key information to be included in the application includes: (i) details of the Parties to the REIT; (ii) description of assets to be included under the REIT; (iii) details of the business plan and investment strategy; and (iv) details of past regulatory action, if any, against the REIT,

Parties to the REIT and each of their directors;

- (v) Review of application by SEBI, addressing queries from SEBI, if any, on the application and incorporating comments received from SEBI, if any, on the Trust Deed and the Investment Management Agreement;
- (vi) Grant of in-principle approval by SEBI for the formation of the REIT;
- (vii) Submission of final application along with the executed Trust Deed and Investment Management Agreement to SEBI; and
- (viii) Grant of final registration certificate by SEBI.

9. When is the Sponsor required to transfer real estate assets to the REIT?

The Sponsor is required to transfer the real estate assets (which constitute the initial assets of the REIT) to the REIT prior to the allotment of Units in the public Issue.

11. What are the conditions attached to the revenue earned by a REIT?

At least 51% of the revenues of the REIT, Holdco and the SPV, other than gains arising from disposal of properties, should arise from rental, leasing and letting real estate assets or any other income incidental to the leasing of such assets.

II. OFFERINGS BY REITS

1. What are the various types of Units offerings that can be undertaken by a REIT?

A REIT can undertake listing only through an initial public offer of its Units. The minimum size of such public offer should be ₹ 2,500 million.

A listed REIT can undertake the following types of offerings of its Units: (a) a follow-on public offer; (b) a preferential allotment; (c) a qualified institutions placement; (d) a rights issue; and (e) a bonus issue. However, the REIT Regulations presently do not provide the operational rules or guidelines for undertaking such offerings of Units by a listed REIT.

2. Is a REIT permitted to have multiple classes of units?

A REIT is not permitted to have multiple classes of Units and no Unitholder is permitted to enjoy superior voting or any other rights over another Unitholder provided however, that subordinated Units carrying inferior voting or any other rights may be issued to the Sponsor and its Associates.

3. What constitutes a public Issue of Units by a REIT? What are the eligibility requirements and other important conditions applicable to a public offer of Units by a REIT?

A public issue of Units by a REIT is an issue of Units to the public in which any person who is eligible to invest can participate. A public Issue may be either a fresh issue or a combination of a fresh issue and an offer for sale. A REIT can only undertake a public Issue if it complies with the following conditions:

- (a) The REIT should be registered with SEBI;
- (b) The value of REIT Assets should be at least ₹ 5,000 million;

- (c) The REIT should have at least 2 assets with not more than 60% of the value of the REIT lying in one asset; and
- (d) The offer size should be at least ₹ 2,500 million.

4. What are the investment conditions applicable to REITs?

A REIT may only invest in Holdcos/SPVs and/or properties or securities or TDR in India in accordance with the REIT Regulations and the investment strategy disclosed in the Offer Document.

The investment conditions applicable to REITs are as follows:

- (a) A REIT shall not invest in vacant land or agricultural land or mortgages other than mortgage backed securities.
- (b) Not less than 80% of the value of the REIT Assets shall be invested in completed and rent/income generating properties.
- (c) Not more than 20% of the value of the REIT Assets shall be invested in:
 - (i) under-construction properties or completed and not rent generating properties;
 - (ii) listed or unlisted debt of companies or body corporates in the real estate sector, excluding investments made in the debt of the Holdco and/or SPV;
 - (iii) mortgage backed securities;
 - (iv) listed shares of companies deriving at least 75% of their operating income from real estate activities;
 - (v) government securities;
 - (vi) TDR/unutilized FSI of a project where the REIT has already made investment; and
 - (vii) money market instruments or cash equivalents.
- (d) A REIT shall not invest in Units of other REITs.

Further, additional investment conditions may be applicable in case of foreign owned and controlled REITs in accordance with the extant foreign exchange regulations.

5. What is the minimum subscription required in a public Issue of the Units of a REIT? Is there any requirement for minimum number of investors for a public Issue?

A minimum subscription of 90% of the Issue size is required for a public offer. In the event minimum subscription of 90% of the Issue size is not received, the REIT would have to refund the application money received from prospective investors within a period of 12 Working Days from the Issue Opening Date, failing which the Manager shall be liable to pay interest at a rate of 15% per annum for the period of delay. There should be at least 200 investors participating in the public offer.

6. Is there any minimum dilution required in a public offer?

The minimum percentage of Units required to be offered to the public in a public Issue is as follows:

- (a) If the post-Issue capital of the REIT calculated at the offer price is less than ₹ 16,000 million, then, at least 25% of the Units shall be offered to the public;
- (b) If the post-Issue capital of the REIT calculated at the offer price is equal to or more than ₹ 16,000 million and less than ₹ 40,000 million, then, such percentage of Units equivalent to ₹ 4,000 million shall be offered to the public; and
- (c) If the post-Issue capital of the REIT calculated at the offer price is equal to or more than ₹ 40,000 million, then, at least 10% of the Units shall be offered to the public.

In the event initial public shareholding is less than 25% in accordance with (b) or (c) above, the REIT shall be required to increase its public shareholding to 25% within a period of three years from the date of initial listing. For the above purposes, “public” refers to persons other than related parties to the REIT or any other person as may be specified by SEBI.

7. Are Units required to be issued in dematerialised form?

Yes, Units of a REIT are required to be issued to applicants in the dematerialized form only.

8. What are the corporate approvals required for public issue of Units in India?

A public Issue of Units of a REIT requires the prior approval of the board of directors of the Manager and the Sponsor.

9. What is the ASBA mechanism?

ASBA is a mechanism prescribed by SEBI, which may be used in a public issue of Units by REITs, wherein the application money can be blocked in the bank account, details of which are provided in the application form, until just prior to allotment of Units as opposed to the application money being submitted along with the application form.

10. Is participation through ASBA mandatory?

The ASBA facility is optional in all public offers, at the discretion of the REIT.

III. PARTIES AND INTERMEDIARIES TO A REIT

1. Who is a Sponsor? What are the eligibility requirements for a Sponsor?

A Sponsor is any person who sets up the REIT and is designated as such at the time of making the application for registration to SEBI. A REIT, being a trust, the Sponsor of a REIT is the author of the trust and is required to transfer the initial portfolio of assets to the REIT. A Sponsor may be a company, an LLP or a body corporate.

The key eligibility requirements for a Sponsor are as follows:

- (a) The Sponsor(s) are collectively required to have a net worth of ₹ 1,000 million provided that each sponsor has a minimum individual net worth of ₹ 200 million;
- (b) The Sponsor or its Associates should have at least 5 years experience in development of real estate or fund management in the real estate industry. Further, if the Sponsor is a real estate developer, it should have developed at least two projects; and
- (c) The Sponsor should be a fit and proper person based on the criteria specified under Schedule II of the SEBI Intermediaries Regulations.

2. What are the duties, roles and responsibilities of a Sponsor?

The rights, duties and responsibilities of a Sponsor include:

- (a) Establishing the REIT, identifying and appointing the Trustee and the Manager and making an application to SEBI for registration of the REIT; and
- (b) Transferring or undertaking to transfer to the REIT, its entire shareholding or interest in the Holdco or the SPVs, or the ownership of the real estate project(s) prior to allotment of Units.

Further, the Sponsor is subject to certain lock-in requirements applicable to the Units held by it. For further details of the

lock-in requirements applicable to Units held by Sponsors , please see *Section V, Question 13*.

3. What is a Sponsor Group?

Where the Sponsor is a body corporate, the Sponsor Group includes:

- (a) Entities or persons which are controlled by the body corporate;
- (b) Entities or persons which control such body corporate; and
- (c) Entities or persons which are controlled by persons identified in (ii) above;

Where the Sponsor is an individual, the sponsor group includes:

- (a) An immediate relative of such individual; and
- (b) Entities or persons which are controlled by such individual.

4. Who is a Trustee? What are the eligibility requirements for a Trustee?

A trustee is a SEBI registered entity which holds the REIT Assets in trust for the benefit of the Unitholders.

The key eligibility requirements for a Trustee are as follows:

- (a) The Trustee should be registered under the SEBI Debenture Trustee Regulations;
- (b) The Trustee should not be an Associate of the Sponsor or the Manager;
- (c) The Trustee should possess the infrastructure and personnel, etc. and in accordance with circulars or guidelines specified/issued by SEBI to the satisfaction of SEBI; and
- (d) The Trustee should be a fit and proper person based on the criteria specified under Schedule II of the SEBI Intermediaries Regulations.

5. What are the duties, roles and responsibilities of a Trustee?

The duties, roles and responsibilities of a Trustee include:

- (a) Appointment and removal of the Manager, subject to compliance with REIT Regulations;
- (b) Overseeing the activities of the Manager in the interest of the Unitholders;
- (c) Entering into the Trust Deed and various other transaction documents on behalf of the REIT, including the Investment Management Agreement;
- (d) Ensuring compliance with various reporting and disclosure requirements prescribed under the REIT Regulations and the REIT Guidelines;
- (e) Reviewing the status of investor complaints and redressal thereof by the Manager;
- (f) Making distributions to the Unitholders in accordance with the REIT Regulations; and
- (g) Ensuring that the activities of the REIT are carried out in accordance with the REIT Regulations, the Trust Deed and the Offer Document.

6. Who is a Manager? What are the eligibility requirements for a Manager?

The Manager is responsible for undertaking investment decisions for the REIT, managing the REIT Assets, undertaking or initiating activities related to general corporate aspects of a REIT (such as Unitholders' meetings, redressal of investor grievances) and ensuring compliance with the requirements of the REIT Regulations.

The Manager may be a company, an LLP or a body corporate. The eligibility requirements for a Manager are as follows:

- (a) If the Manager is a body corporate or a company, its net worth should not be less than ₹ 100 million. If the Manager is an LLP, its net tangible assets should not be less than ₹ 100 million;

- (b) The Manager or its Associates should have at least 5 years experience in fund management, advisory services, property management in the real estate industry or development of real estate;
- (c) The Manager should have at least two Key Managerial Personnel, each having a minimum of 5 years experience in fund management, advisory services, property management in the real estate industry or development of real estate;
- (d) The board of directors (or governing board of the LLP, as the case may be) of the Manager should consist of at least 50% independent directors, and such independent directors should not be directors (or members of governing board of LLPs) of any other REIT; and
- (e) The Manager should be a fit and proper person based on the criteria specified under Schedule II of the SEBI Intermediaries Regulations.

7. What are the duties, roles and responsibilities of a Manager?

The duties, roles and responsibilities of the Manager include:

- (a) Making investment decisions with respect to the REIT Assets including any future investment or divestment of REIT Assets;
- (b) Appointing various intermediaries with respect to the activities of the REIT, in consultation with the Trustee, in a timely manner;
- (c) Ensuring adequate and timely redressal of all Unitholders' grievances pertaining to activities of the REIT;
- (d) Undertaking all such other activities delegated to it by the Trustee in terms of the Investment Management Agreement; and
- (e) Declaring distributions to Unitholders.

8. Who are the key intermediaries involved in the operation of a REIT?

The key intermediaries involved in the operation of a REIT are the Valuers and Auditors.

9. What is an SPV/Holdco?

A REIT may hold assets directly, through an SPV or through a two tier structure comprising of a Holdco and an SPV.

A Holdco is an entity:

- (a) in which the REIT holds controlling interest and at least 51% of the equity share capital or interest;
- (b) which has made investments in other SPVs which ultimately hold the REIT assets;
- (c) in which the REIT (acting through the Manager) appoints the majority of the board of directors; and
- (d) which is not engaged in any other activity other than holding of the underlying SPVs/ real estate/ properties.

An SPV is an entity:

- (a) in which either the REIT or the Holdco holds controlling interest and at least 51% of the equity share capital or interest;
- (b) which holds at least 80% of its assets directly in properties and does not invest in other SPVs;
- (c) in which the REIT (acting through the Manager) appoints the majority of the board of directors; and
- (d) which is not engaged in any other activity other than holding and developing property.

10. Who is a Valuer? What are the eligibility requirements of a Valuer?

A Valuer may be any person, who is either a “registered valuer” under Section 247 of the Companies Act, 2013 (subject to being notified by the MCA), or as defined under the REIT Regulations, and appointed by the Manager, to undertake both financial and technical valuation of the REIT Assets in accordance with the REIT Regulations.

The Valuer should not be an Associate of the Sponsor, Manager or the Trustee, and should have at least 5 years experience in valuation of real estate.

For the purposes of financial valuation, the following entities can act as a Valuer to a REIT: (i) a chartered accountant, (ii) a company secretary, (iii) a cost accountant who is in whole-time practice, (iv) a retired member of the Indian Corporate Law Service, (v) any person holding an equivalent Indian or foreign qualification (acquired by an Indian citizen) as the MCA may recognize (vi) a merchant banker registered with SEBI, and who has in his employment person(s) having minimum 5 years' continuous experience after acquiring membership of such institutions, in accordance with the REIT Regulations to carry out valuation.

A Valuer in respect of technical asset valuation should be a member of certain prescribed institutions, which include the (i) Institution of Valuers, (ii) Institution of Surveyors (Valuation Branch) (iii) Institution of Government Approved Valuers, (iv) Practicing Valuers Association of India, (v) Centre for Valuation Studies, Research and Training, (vi) Royal Institution of Chartered Surveyors, UK, (vii) American Society of Appraisers, United States, (viii) Appraisal Institute, United States, (ix) Institute of Engineers, and (x) Council of Architecture or the Indian Institute of Architects, possessing such experience and expertise as specified under the REIT Regulations.

11. What are the duties, roles and responsibilities of a Valuer?

The duties, roles and responsibilities of the Valuer include:

- (a) Ensuring that the valuation of the REIT Assets is impartial, true and fair in accordance with REIT Regulations;
- (b) Ensuring adequate and robust internal controls to ensure the integrity of valuation controls; and
- (c) Disclosing to the REIT, any pending business transactions, contracts under negotiation and other arrangements with the Manager or any other party

whom the REIT is contracting with and any other factors that may interfere with the Valuer's ability to provide an independent and professional valuation.

12. Who appoints the Auditor? What are the eligibility requirements and scope of services provided by the Auditor?

The Auditor should be appointed by the Manager, for a period of not more than 5 consecutive years. The Auditor (other than an individual) may be further reappointed for another 5 consecutive years, subject to Unitholders' approval in accordance with the REIT Regulations. The audit of the REIT's financial statements should be conducted at least once every year.

The Auditor is required to audit and deliver a report on the REIT's financial statements for inclusion in the Draft Offer Document, Offer Document and Final Offer Document. The report includes restated audited financial statements prepared in accordance with applicable accounting and auditing standards. The Auditor is also required to subject itself to the peer review process of the ICAI and hold a valid certificate issued by the Peer Review Board of ICAI. The Auditor is required to certify certain forward looking projections including the assumptions, of the REIT Assets that are owned or proposed to be owned by the REIT, in accordance with REIT Regulations.

The Auditor is required to prepare a statement of special tax benefits, which is available to the REIT and its Unitholders.

Further, Auditors in public offerings are typically required to deliver a 'comfort letter' to the Merchant Bankers to the Issue at various stages of the listing process, which relates to "negative assurances" or changes in certain line items after the date of the last audit, and confirmations on the financial data, statements and other financial and operational data included in Draft Offer Document, Offer Document and Final Offer Document.

13. What are the duties, roles and responsibilities of an Auditor?

The duties, roles and responsibilities of the Auditor include:

- (a) Conducting an audit of the accounts of the REIT and drafting the audit report based on the examination of such accounts;
- (b) Ensuring that the accounts and the financial statements provide a true and fair picture of the state of affairs of the REIT; and
- (c) Ensuring that the financial statements comply with the applicable accounting standards.

IV. TRANSACTION DOCUMENTS

1. What are the disclosure documents prescribed by SEBI for the public issue of Units? Are the disclosure documents subject to prior review by SEBI or any other regulatory authority?

The disclosure documents prescribed by SEBI are the Draft Offer Document, the Offer Document and the Final Offer Document. The Draft Offer Document is submitted before the SEBI for their review and the public Issue is undertaken through Offer Document and Final Offer Document.

The Draft Offer Document is required to be filed with SEBI at least 30 days prior to filing of the Offer Document with the designated Stock Exchange and SEBI, and should be made available for public comments for at least 21 days. Any comments provided by SEBI on the Draft Offer Document are required to be incorporated to the satisfaction of SEBI before filing of the Offer Document.

2. What are the various transaction documents required for a REIT?

There are two categories of transactions documents that are required for a REIT, namely, (a) structure related transaction documents; and (b) listing related transaction documents.

(a) Structure related transaction documents

These documents relate to setting up of the REIT, allocation of responsibility of various Parties to the REIT, transfer of the initial portfolio of assets to the REIT by the Sponsor/Sponsor Group and the mechanism for utilizing cash flows of the Holdco/SPVs for distribution to the Unitholders. A brief summary of the structure related transaction documents is set out below:

(i) Trust Deed

The Trust Deed is the constitutional document of a REIT. It is entered into between the Sponsor and the Trustee prior to the registration of the REIT with SEBI. It sets out, amongst other things, the objectives of the REIT and the powers, functions, duties and responsibilities of the Trustee and the Manager.

A copy of the Trust Deed is required to be submitted to SEBI along with the application for registration of the REIT.

(ii) Investment Management Agreement

The Investment Management Agreement is entered into between the Trustee, acting on the behalf of the REIT and the Manager prior to registration of the REIT with SEBI. It sets out, amongst other things, powers, functions, duties, responsibilities and liabilities of a Manager including those prescribed under the REIT Regulations and those delegated by the Trustee to the Manager in accordance with applicable law.

(iii) Share Purchase Agreement or Asset Purchase Agreement

The share purchase agreement or the asset purchase agreement is entered into for transferring the assets, or interest in the Holdco or the SPVs, as applicable, comprising the initial portfolio of assets, from the Sponsor to the REIT.

The share purchase agreement or the asset purchase agreement is entered into amongst the Sponsor, the Trustee, acting on behalf of the REIT, the Manager (being the confirming party) and the Holdco or if the SPVs own the initial portfolio of assets, the SPVs. The Share Purchase Agreement or the Asset Purchase Agreement is required to be finalized prior to filing the Draft

Offer Document. It is typically executed before filing of the Offer Document and its closing should occur prior to allotment of Units in the public offer.

(iv) Shareholders' Agreements

As required under the REIT Regulations, where the REIT has Holdcos/SPVs which are not 100% owned by the REIT, the REIT/Holdco will be required to enter into a shareholders' agreement with the other shareholders or partners of the relevant Holdco/SPV, as applicable, to ensure that such shareholders/partners do not have any rights that may prevent the SPV, the Holdco or the REIT from complying with the provisions of the REIT Regulations.

(v) Debenture Subscription Agreement or Loan Agreement

Debenture subscription agreements or the loan agreement may be entered into for establishing an efficient mechanism to upstream cash flows of the SPVs to the REIT. Such cash flows are then utilized to make distributions to the Unitholders in accordance with the REIT Regulations.

The debenture subscription agreement or the loan agreement is entered into amongst the Trustee acting on behalf of the REIT, the Manager and the SPVs, prior to the filling of the Offer Document with SEBI.

(vi) Other Agreements

In addition to the agreements set out above, some or all of the following agreements may also be required depending upon the structure of the REIT and factual assessment of the relationship between the REIT and its Sponsor:

- *Shared Services Agreement-* A Shared Services Agreement is not a mandated requirement under the REIT Regulations or essential for setting up and listing a REIT.

It may be entered into if the REIT intends to continue its reliance on the Sponsor for certain services, such as information technology and human resources.

Whilst the Shared Services Agreement needs to be finalized before filing of the Draft Offer Document (in case of a public offer), the execution can be delayed until filing of the Offer Document.

- *Intellectual property or name licensing agreement-* An intellectual property or name licensing agreement is not a mandated requirement under the REIT Regulations or essential for setting up and listing a REIT. It is only required if the REIT proposes to utilize any intellectual property of the Sponsor or Sponsor group, such as its trade name, trademark or logo.

Whilst the intellectual property or name licensing agreement needs to be finalized before filing of the Draft Offer Document (in case of a public offer), the execution can be delayed until filing of the Offer Document.

- *Non-Compete-* Such an arrangement may be entered into to restrict the Sponsor from undertaking real estate projects which compete with the REIT.
- *Deed of right of first offer or refusal-* Typically, the right of first offer or refusal is provided by the Sponsor to the REIT in relation to real estate properties being developed by the Sponsor. Such arrangement enables the REIT to access a pipeline of assets to ensure continued existence of the REIT. It also ensures that the Sponsors do not set-up competing REITs with similar or same class of assets.

The deed of right of first offer or refusal is entered into amongst the Sponsor and the Trustee, acting on behalf of the REIT, and the Manager.

(b) Listing related transaction documents

(i) *Issue Agreement*

The issue agreement is entered into amongst the Merchant Bankers, the Sponsor, the Manager and the Trustee acting on behalf of the REIT, prior to the filing of the Final Offer Document. It sets out, amongst other things, the roles and responsibilities of the Merchant Bankers, the conditions precedent to the Merchant Banker's obligations, representation and warranties from the Trustee, the Manager and the Merchant Bankers, details of the indemnity provided by the Manager and the Trustee to the Merchant Bankers and provision for termination of the Merchant Bankers' engagement. The obligations of the Merchant Bankers are several and not joint. The fee arrangement is typically governed by an engagement letter entered into between the Manager (on behalf of the REIT) and each Merchant Banker. If the public offer has an offer for sale component, the selling unitholders are also made party to the issue agreement.

(ii) *Registrar Agreement*

The registrar agreement is entered into amongst the Manager, the Trustee, acting on behalf of the REIT and the Registrar whereby the Manager is required to appoint a Registrar to the Issue. This agreement sets forth the rights and obligations of the Registrar in the Issue process.

(iii) *Advertising Agency Agreement*

The advertising agency agreement is entered into amongst the Manager, the Trustee, acting on behalf of the REIT, the Merchant Bankers and the

advertising agency. It sets out the obligations of the advertising agency, the Manager, the Trustee and the services provided by the advertising agency for advertising and media relations in respect of the REIT.

(iv) Escrow Agreement

The escrow agreement sets out the arrangement for collection of application/bid amounts from non-ASBA bidders. This agreement is entered into between the Manager, the Trustee (acting on behalf of the REIT), the Merchant Bankers, the syndicate members, the escrow banks and the Registrar. This agreement also provides for the manner by which the funds in the escrow accounts are transferred to the refund account or the public offer account, as applicable.

(v) Underwriting Agreement

The underwriting agreement is entered into amongst the Manager, the Trustee, acting on behalf of the REIT and the underwriters after determination of the price and allocation of the Units, but prior to the filing of the Final Offer Document. Under the terms of the underwriting agreement, the underwriters agree to ensure payment with respect to the Units allocated to Unitholders procured by them and, in the event of any default in payment, the respective underwriter is required to procure purchasers for, or purchase, the Units to the extent of the defaulted amount. It also includes among other things, conditions precedent to the individuals' obligations, representations and certain covenants by the Manager and the indemnity provisions.

V. PROCESS FOR ISSUE AND FOR LISTING

1. What is the process for public listing of Units?

Set out below are the indicative steps and process for public listing of Units, which has been divided into six stages:

(a) *Pre-filing of the Draft Offer Document*

- Appointment of Merchants Bankers and legal counsels
- Kick-off meeting where the senior management provides an overview of the Sponsor and its business to the Merchant Bankers and the legal counsels and the REIT timelines are discussed
- Identification of the REIT Assets, the Trustee and the Manager
- Preparation of the data room
- Commencement of due diligence exercise, simultaneously with commencement of drafting of the Draft Offer Document
- Submission of application (along with execution version of the Trust Deed and the Investment Management Agreement) for grant of certification of registration by SEBI
- Receipt of comments from SEBI, if any on the application, the Trust Deed and the Investment Management Agreement
- Execution of the Trust Deed and Investment Management Agreement
- Receipt of certificate of registration of REIT from SEBI
- Execution of the structure related transaction documents and certain listing related transaction documents (*for details, please see Section IV, Question 2*)

Typically, whilst the agreement for acquisition of initial portfolio of assets (i.e. Share Purchase Agreement or Asset Purchase Agreement) will be executed prior to the filing of the Draft Offer Document, the closing of the transaction would occur subsequently, before allotment of Units. Similarly, typically, the closing of debenture subscription agreement or loan agreement between the SPV and the REIT would occur after receipt of final listing and trading approval of the Units.

(b) Filing of the Draft Offer Document

- Executed standard certificates are provided by the Trustee, the Manager, Sponsor and their respective directors and associates and executed comfort letter is provided by the auditors
- Execution of issue agreement
- Filing of the Draft Offer Document with SEBI along with due diligence certificate by the Merchant Bankers
- Filing of application with the Stock Exchanges for grant of in-principle approval for listing and trading of the Units

(c) SEBI review and receipt of final SEBI Observations

- Replying to the interim observations received from SEBI on the Draft Offer Document
- Receipt of final observations from SEBI

(d) Post final SEBI observation and filing of the Offer Document

- Filing the reply to the final observations received from SEBI along with an updated Draft Offer Document
- Receipt of SEBI approval for the updated Draft Offer Document
- Execution of escrow agreement and syndicate agreement

- Updated standard certificates and comfort letter to be provided by the relevant persons
- Filing of the Offer Document with SEBI and the designated Stock Exchange and obtaining approvals from SEBI and the designated Stock Exchange

(e) Issue period

- Announcement of the floor price or price band at least 5 Working Days before the opening of the Issue
- Opening of the Issue at least 5 Working Days after the date of filing of the Offer Document with SEBI
- Opening of the Bidding Period for Anchor Investors, one day prior to the Bidding Period for all other bidders.
- Opening of the Bidding Period for subscription by all investors
- Bidding Period to be for a minimum of 3 days and a maximum of 30 days
- Bidding closes

(f) Post-Issue period

- The Registrar to get bid details from the Stock Exchanges
- The Manager, in consultation with the Merchant Bankers to determine the Issue price
- Finalization of the Issue price and filing of the Final Offer Document with SEBI and the designated Stock Exchange and execution of the underwriting agreement
- The Registrar to submit final basis of allotment to the designated Stock Exchange
- The Registrar and Merchant Bankers to issue funds transfer instructions to collecting banks and SCsBs for credit of funds into the public offer account

- Manager to allot the Units and credit the Units to the successful bidders
- Designated Stock Exchange to provide final listing and trading approvals
- Trading commences

2. Are the investors categorized? If yes, how are Units allocated amongst different categories?

Investors are categorized into: (a) Institutional Investors and (b) other investors. The allocation in the public offer shall be made as follows:

- (a) Not more than 75% to Institutional Investors.
- (b) Not less than 25% to other investors.

3. Who are Institutional Investors?

An Institutional Investor includes:

- (a) a QIB;
- (b) a family trust or systematically important NBFCs registered with the Reserve Bank of India or intermediaries registered with SEBI, all with net-worth of more than ₹ 5,000 million, as per the last audited financial statements.

4. Are there any restrictions on Institutional Investors from investing in the Units of a REIT?

As per the REIT Guidelines, all Institutional Investors are permitted to invest in a public Issue of Units of a REIT. However, certain categories of Institutional Investors such as insurance companies and scheduled commercial banks may not be able to participate in a public Issue of Units of a REIT given that the specific regulations governing such entities do not contemplate an investment into Units or instruments of a like nature.

5. Who are Anchor Investors?

- (a) In terms of the Issue, 75% of the Issue shall be available for allocation to Institutional Investors on a proportionate basis. The Manager, in consultation with the Merchant Bankers, may allocate up to 60% of the Institutional Investor portion to Anchor Investors.
- (b) An Anchor Investor shall make an application of a value of at least ₹ 100 million in the public offer.
- (c) Allocation to Anchor Investors shall be on a discretionary basis and subject to the following:
 - (i) minimum of 2 Anchor Investors for allocation up to ₹ 2,500 million; and
 - (ii) minimum of 5 Anchor investors for allocation of more than ₹ 2,500 million.
- (d) If the price fixed as a result of book building is higher than the price at which the allocation is made to Anchor Investors, the Anchor Investor shall bring in the additional amount within 2 days of the date of closure of the Issue. However, if the price fixed as a result of book building is lower than the price at which the allocation is made to Anchor Investors, the excess amount shall not be refunded to the Anchor Investor and the Anchor Investor shall be allotted Units at the price at which allocation was made to it.
- (e) 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.

6. What is a 'confirmation of allocation note'?

Confirmation of allotment note or the CAN is the advice or intimation of allotment of Units of the REIT sent to the Bidders who have been allotted Units upon finalization of the basis of allotment. The CAN is not a statutory requirement; however, it is used to confirm the sales by the Syndicate Members.

7. What are the methods of pricing of Units?

Pricing of Units is typically undertaken through the book building process. However, the REIT Regulations also envisage a fixed price issue where the price of Units is fixed by the Manager in consultation with the Merchant Bankers.

8. What is book building?

The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, defines 'book building' as a process undertaken to determine the demand, and to assess the price for determination of the quantum or value of securities proposed to be issued by the issuer.

9. How are bids collected in book building?

During the specified period, investors submit a bid cum application form to the SCSBs, members of the Syndicate, Registered Brokers, CDPs and RTAs, indicating the number of Units and the price within the price band at which they wish to subscribe to the Units of the REIT.

Each bid cum application form gives the Bidder the choice to Bid for Units at three optional prices within the price band and specify the number of Units Bid for against each such price.

Bid amounts collected are deposited in the escrow account in terms of the escrow agreement or in case of ASBA bids, an amount equivalent to the Bid amount will be blocked by the SCSBs in the bank account specified in the bid cum application form.

The SCSBs, Syndicate Members or Registered Brokers enter such Bid option of each Bidder into the electronic bidding system as a separate Bid.

After determination of the price, the maximum number of units Bid for by a Bidder at or above the price is considered for allocation and the rest of the Bids, irrespective of the Bid price, are automatically rejected.

10. Who fixes the price of Units in a fixed price Issue?

After the Issue Closing Date, the Manager on behalf of the REIT in consultation with the Merchant Bankers may fix the price of Units and the number of Units to be allotted to each category of investors.

11. When is the allotment of Units required to be completed in case of a public offer?

The allotment of Units and their listing on Stock Exchanges should be completed within 12 Working Days of the Issue Closing Date.

12. What are the lock-in requirements?

In terms of the REIT Regulations, lock-in requirements are of three types: (i) that which applies to the Sponsor/Sponsor Group of the REIT; (ii) that which applies to all Unitholders holding Units of the REIT prior to the initial offer (including the Unitholding of the Sponsor exceeding minimum lock-in requirement); and (iii) that which applies to Anchor Investors in public offers.

13. What are the lock-in requirements applicable to the Sponsor of the REIT?

In terms of the REIT Regulations, the Sponsors and Sponsor Group are required to collectively hold at least 25% of the post-Issue capital of the REIT for a period of 3 years from the date of listing.

Any Units held by the Sponsor/Sponsor Group in excess of the Sponsor/Sponsor Group contribution, is required to be locked in for a period of 1 year from the date of listing. Further, each Sponsor is required to hold at least 5% of the total Units of the REIT at all times, and the Sponsors/Sponsor Group is required to collectively hold at least 15% of the total Units of the REIT at all times.

Inter-se transfers amongst the Sponsors and the Sponsor Group are not subject to lock-in. However any transfer of Units by the Sponsor and Sponsor Group below the 5% and 15% individual and collective thresholds shall be permissible only post 3 years from the date of listing of the Units.

14. What are the lock-in requirements applicable to any person other than the Sponsor and Sponsor Group who has been holding Units of the REIT prior to the initial offer?

The lock-in requirement for any person other than the Sponsor, and Sponsor Group who has been holding Units of the REIT prior to initial offer is one year from the date of listing of the Units.

Additionally, Units allotted to Anchor Investors are required to be locked in for a period of 30 days from the date of allotment in the public offer.

VI. DISCLOSURE REQUIREMENTS

1. What are the disclosure standards applicable in India?

Disclosure standards in India for the Offer Documents issued by REITs are substantially at par with other securities markets in the world. Presently, the disclosure requirements are governed by the REIT Regulations and the REIT Guidelines, in case of public issues of REITs. However, they are continuing to evolve based on, amongst other things, regulatory evaluation and feedback from stakeholders including prospective investors.

In this respect, the key governing principle under the REIT Regulations is that all disclosures made in the Offer Documents must contain material, true, fair and adequate disclosure to enable the investors to make a well informed decision. Additionally, the Offer Documents should not: (i) be misleading or contain any mis-statements; or (ii) guarantee returns to the investors.

2. What are the key areas of disclosures in Offer Documents?

In addition to the customary key areas such as the business and market overview of the REIT, risk factors (internal and external to the REIT), financial statements of the REIT, management's discussion and analysis of financial condition and results of operation, other key disclosure requirements under the REIT Regulations include:

- (a) Comprehensive details pertaining to the Sponsor, Manager, Trustee and other parties.
- (b) Brief background of the REIT, including, the REIT structure and description and details of any arrangement pertaining to the underlying REIT Assets.
- (c) Capital structure of the REIT including any borrowing or deferred payments and the borrowing policies.

- (d) Details of any related party transactions along with the procedure for dealing with such transactions.
- (e) Description of the REIT Assets, including disclosures in relation to title and specific disclosures in respect of leased out and under construction properties.
- (f) Financial statements of the Sponsor and Manager.
- (g) Investment strategy of the REIT.
- (h) Projections of income of the REIT.
- (i) Disclosures on title of the REIT Assets including any material litigations pertaining to the REIT Assets.
- (j) Disclosures on the status of approvals with respect to the REIT Assets and approvals periodically required for the REIT Assets.
- (k) Details of material litigations and regulatory actions which are pending against the REIT, the Sponsor, the Manager and their respective Associates and the Sponsor Group and Trustee, as specified.
- (l) Comprehensive details on the rights of Unitholders.
- (m) Auditors report and any sector-specific report.

3. What are the disclosure requirements for the objects for which the Issue is proposed?

The REIT Regulations do not prescribe detailed requirements for disclosures related to objects. Listed trust structures typically utilize issue proceeds for payment of consideration for acquisition of the REIT Assets. REITs are expected to frame similar use of proceeds and would accordingly need to include disclosures regarding consideration for acquisition of the initial portfolio of assets. Regardless of the object, the issuer will be required to provide comprehensive details of the utilization of funds proposed to be raised in the IPO and the basis on which such amount has been determined so as to ensure that the substantive disclosure norms of SEBI are satisfied in letter and spirit.

4. What are the disclosure requirements for the directors and key managerial personnel of the Sponsor(s), the Manager and the Trustee?

Brief profiles of the directors of the Manager and the Trustee are required to be disclosed. In addition, the details of the Units held by the directors of the Manager are required to be disclosed.

5. What are the litigation related disclosures in the registration application and the Offer Documents?

Litigation related disclosure requirements at the time of applying for registration of the REIT extend to the REIT, Sponsor, Manager, Trustee, Sponsor Group, their directors or members of the governing board and include:

- (a) Litigation connected with the securities market which may have an adverse bearing on the business of the REIT or any order passed against such persons for violation of securities laws.
- (b) Disciplinary action taken by SEBI or any other regulatory authority.
- (c) Refusal of registration or suspension of registration by SEBI.

The litigation related disclosures in Offer Documents pertaining to the Parties to the REIT, the REIT and the REIT Assets are as follows:

- (a) Details of any material litigations pertaining to the REIT Assets.
- (b) Brief description of material litigation and regulatory actions pending against the REIT and its Associates, if any, in the last 5 years.
- (c) Brief description of material litigation and regulatory actions pending against the Sponsor and its Associates, if any, in the last 5 years.

- (d) Brief description of material litigation and regulatory actions pending against the Manager and its Associates, if any, in the last 5 years.
- (e) Brief description of material litigation and regulatory actions pending against the Trustee, if any, in the last 5 years.
- (f) Brief description of material litigation and regulatory actions pending against the Valuer, if any, in the last 5 years.
- (g) Brief description of material litigation and regulatory actions pending against the Sponsor Group, if any, in the last 5 years.

The Associates of an entity would inter-alia include any person exerting significant influence over such entity, any person controlling or controlled by such entity and any other entity with a common promoter.

6. What financial statements are to be included in Offer Documents?

In terms of the REIT Regulations, Offer Documents are required to include financial information for a period of last 3 completed financial years. If the closing date of the last completed financial years is more than 6 months before the date of Offer Document, the REIT is also required to disclose interim financial information.

If a REIT is already in existence for the last 3 completed financial years, its historical financial statements on both, standalone and consolidated basis are required to be disclosed. However, where a REIT is in existence for less than 3 years, combined financial statements of the REIT are required to be disclosed. The consolidated or combined financial statements, as well as the interim financial information, as applicable, should be prepared in accordance with Ind AS.

Further, projections of income and operating cash flows of the REIT are also required to be disclosed in the Offer Documents (along with related assumptions and as certified

by the REIT's Auditors) for a period of the following 3 years.

Additionally, the summary financial statements of the Manager and the Sponsor(s) for the previous three years are required to be disclosed. The financial information of the Sponsors and Managers shall be presented as per IGAAP or Ind AS depending on the stage of transition of the relevant entity (from IGAAP to Ind AS).

7. What are the disclosure requirements in respect of valuation of a REIT?

A summary of the valuation report, valuation methodology, and frequency of valuation and declaration of NAV should be disclosed in the Offer Documents. However, adequate disclosures in respect of valuation of assets will be required in case of any related party transactions entered into prior to making the initial public offer.

8. What are the consequences of misstatements in Offer Documents?

Any misstatements in the Offer Documents are considered as a contravention by the Manager, the Sponsor(s) and the Merchant Bankers of the REIT Regulations and REIT Guidelines, and they may be liable for one more actions specified therein, including any action provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

9. What role does SEBI play in relation to misstatements?

As per the REIT Regulations, a REIT or Parties to the REIT or any other person involved in the activity of the REIT who contravene the SEBI Act, the REIT Regulations, the REIT Guidelines or notifications or instructions issued there under, shall be liable for one or more actions specified therein. Further, in terms of the SEBI Act, penalty proceedings can also be initiated by SEBI with regard to any of the contraventions specified above.

10. What is the liability of intermediaries associated with an initial public offering of Units for misstatements and omissions in the Offer Documents?

The Merchant Bankers are required (under the REIT Regulations) to submit a due diligence certificate to SEBI at various stages of the listing process with respect to the contents of the offer documents and could therefore be held liable by SEBI. Moreover, the responsibility of the Merchant Bankers with respect to due diligence shall continue even after the completion of the Issue process.

Separately, all intermediaries can be held liable under the applicable SEBI regulations under which they are registered with SEBI.

The REIT Regulations further provide that any contravention of any provisions of any of the regulations or guidelines or circulations thereof, issued by SEBI, by the intermediaries, shall be liable for one or more actions as specified therein and any action provided under the SEBI Intermediaries Regulations and the Merchant Banker Regulations.

11. Can private action be initiated for misstatements?

Yes, any person or group of persons who have sustained any loss or damage due to misstatements in the Offer Documents or fraudulent conduct may approach any court with appropriate jurisdiction in order to claim compensation for such loss or damage.

VII. CORPORATE ACTIONS

1. What are the corporate approvals required by the Sponsor, Manager and the Trustee for the public issue of Units of the REIT ?

Approval of the board of directors of the Sponsor shall be required for setting up the REIT, appointing the Trustee and Manager and filing of the application with SEBI for registration of the REIT. Approval of the board of directors of the Sponsor and the Manager shall be required for undertaking a public issue of Units of the REIT. Further, the approval of the board of directors (or a duly constituted committee thereof) of the Manager shall be required for various activities related to the public issue of Units of the REIT, such as approval of the Draft Offer Document, the Offer Document and the Final Offer Document and execution of various agreements in relation to the Issue. These authorizations will be required at various stages in the transaction, including at the time of making the application to SEBI for registration of the REIT, filing the Draft Offer Document, the Offer Document and the Final Offer Document or allotment of Units.

2. What are the approvals required for transfer of assets by the Sponsor to the REIT ?

Each Sponsor would require the approval of its board of directors for transfer of the initial portfolio of assets. Moreover, depending upon the materiality of the assets being transferred by the Sponsor, shareholders' approval may also be required by the Sponsor. The transfer of the initial portfolio of assets may also require third party approvals, depending upon regulatory restrictions, if any, and contractual arrangements entered into by the Sponsor. Transfer of assets may additionally require approvals from specific regulatory authorities such as the state specific land development authorities, SEZ BoA etc. and issuance of Units by the REIT may require approvals from the FIPB. Such approvals would include those related to any transfer restrictions applicable to

the assets or the SPVs, imposed by relevant regulatory authorities, any restrictions under licenses and approvals applicable to the assets or the SPVs, any restrictions under financing agreements and any restrictions imposed by the private equity investors, if any, in the Sponsor or the SPVs.

3. Are there any specific corporate governance requirements applicable to the REIT or its Manager?

There are no specific corporate governance requirements applicable to the REIT. In accordance with the REIT Regulations, 50% of the board of directors of the Manager should comprise of independent directors and such directors should not be directors or members of the governing body of another REIT. However, typically the Manager is expected to put in place governance structures to ensure independent decision making, which is in the best interest of all Unitholders, and to address any conflicts of interest with the Sponsor. These structures include constitution of various committees such as audit committee and investment committee, and instituting policies in relation to related party transactions and conflicts of interest.

4. Are there any specific requirements regarding the composition of the board of directors of the Holdco/SPVs?

In accordance with the REIT Regulations, the Manager, in consultation with the Trustee, shall appoint a majority of the board of directors of the Holdco/SPVs

VIII. CERTAIN POST-ISSUE CONSIDERATIONS

1. What are the reporting requirements applicable to a REIT?

The reporting requirements applicable to a REIT are set out under the REIT Regulations and the Continuous Disclosures Circular, and state that the Manager shall (i) submit an annual report to Unitholders and to the designated Stock Exchanges; and (ii) submit a half-yearly report to the designated Stock Exchanges. Such annual and half yearly reports shall contain disclosures as specified under the REIT Regulations, including a brief report of activities of the REIT and summary of the audited consolidated financial statements for the year of the REIT.

The REIT is required to submit to the designated Stock Exchanges (i) the financial information for the first half year period of the financial year; (ii) the annual financial information; and (iii) the financial information for the second half year period of the financial year, which should be submitted along with the annual financial information.

The financial information of the REIT should be disclosed on both a standalone as well as a consolidated basis. The annual financial information should contain comparative information for the immediately preceding year and the half yearly financial information should contain comparative information for the (i) immediately preceding half year; and (ii) corresponding half year in the immediately preceding financial year.

In addition to certain key financial statements that need to be disclosed by the REIT, such as the balance sheet, statement of profit and loss, statement of net assets at fair value and statement of changes in Unitholders' equity, the REIT is also required to disclose, inter alia, (i) statement of net distributable cash flows of the REIT as well as of the underlying Holdcos and SPVs; (ii) fees paid to the Manager and whether there have been any material changes in the fees paid; (iii) changes in accounting policies of the REIT; (iv)

statement of earnings per Unit; and (v) statement of related party transactions.

Further, the Manager shall disclose to the designated Stock Exchanges, any information having a bearing on the operation or performance of the REIT as well as price sensitive information, such as details of any borrowing of the Holdco or the SPVs or, acquisition or disposal of any assets.

2. Are there any regulations governing insider trading?

All listed companies are required to comply with the Insider Trading Regulations with respect to treatment of unpublished price sensitive information. Accordingly, each listed company is required to formulate the following:

- (a) Code of conduct for regulating, monitoring and reporting of trading by insiders, as defined under the Insider Trading Regulations; and
- (b) Code of practices and procedures for fair disclosure of unpublished price sensitive information.

Similar requirements are expected to be applicable to REITs.

3. What are the distribution requirements applicable to a REIT?

A REIT is required to distribute at least 90% of its net distributable cash flows to its Unitholders. Furthermore, the SPVs are required to distribute at least 90% of their net distributable cash flows to the REIT, or, if applicable to the Holdco. In case of a two-tiered structure of a REIT, the Holdco is required to distribute to the REIT (i) 100% of the cash flows received by it from the SPVs; and (ii) 90% of the net distributable cash flows generated by it.

Such distributions shall be declared and made once every 6 months in every financial year in the manner disclosed in the Offer Document.

In addition to the periodic distributions specified above, if any real estate asset is sold by the REIT, at least 90% of the proceeds of such sale are required to be distributed to the Unitholders, unless such proceeds are proposed to be re-invested in other real estate assets within a period of 1 year.

IX. PUBLICITY AND RESEARCH

A. Publicity

1. What are the publicity restrictions applicable in India?

The REIT Regulations and the REIT Guidelines prescribe publicity restrictions applicable to a REIT undertaking a public Issue of its Units.

The publicity restrictions in India are applicable to the REIT as well as certain other persons, *as set out in Section IX, Part A, Question 2*. The publicity restrictions include the following:

- (a) All public communications should only contain factual information and should not contain conjectures or any matter extraneous to the contents of the Draft Offer Document, the Offer Document and the Final Offer Document;
- (b) No interviews with the media should be scheduled, nor any responses should be made to queries from the media, without consulting the legal counsels;
- (c) In case of any previously scheduled interviews, no information regarding the public Issue should be discussed;
- (d) Any public communication should not contain statements which promise or guarantee rapid increase in profits, yields or returns;
- (e) All advertisements issued by the REIT from the period of filing the Draft Offer Document until the listing of the Units have to contain prescribed disclaimers informing the public about the proposed public Issue;
- (f) Factual information about the business of the REIT may be answered over unsolicited telephone inquiries from the press, consistent with past practice, but any statements concerning the proposed Issue should be avoided;

- (g) One-on-one meetings with investors, especially at conferences should not be conducted;
- (h) There should not be participation in the preparation and distribution of research reports or analysis;
- (i) It should be ensured that there is no mention of the Issue in any form on their websites; and
- (j) All information on their websites should be consistent with the disclosures in the Draft Offer Document, the Offer Document and the Final Offer Document.

2. To whom are the publicity restrictions applicable?

Publicity restrictions are applicable to the REIT, the Sponsor, the Sponsor Group, Manager, Trustee and their respective directors, subsidiaries, Holdcos, SPVs, Associates of the REIT and persons acting on their behalf, including public relations, marketing or advertising agencies and financial advisors.

3. What are the periods during which the publicity restrictions become applicable?

The publicity restrictions are applicable in relation to a public Issue by a REIT from the date of the meeting of the board of directors of the Sponsor or the Manager approving the public offer or the date of registration of the REIT with SEBI, whichever is earlier. The publicity restrictions would continue to be applicable up to the date of allotment of Units being offered or issued in the public issue.

4. What are the various advertisements that are required to be released in a public issue of Units of a REIT?

The various advertisements required to be released during the public issue of Units of a REIT are:

- (a) The pre-Issue advertisement, which is required to be published post filing of the Offer Document with SEBI and the Stock Exchanges and prior to the Issue Opening Date;

- (b) The price band advertisement, which is required to be published at least 5 Working Days before the Issue Opening Date;
- (c) The public issue opening advertisement, which may be published prior to the Issue Opening Date;
- (d) The public issue closing advertisement which may be published prior to the Issue Closing Date;
- (e) The basis of allotment advertisement which is required to be published within ten days from date of completion of activities in relation to the Issue and prior to listing of the Units.

B. Research

1. Are there any laws applicable to research analysts?

Yes, the SEBI Research Analyst Regulations are applicable to research analysts and primarily govern the preparation and dissemination of research reports in relation to public issue of Units by a REIT.

2. To whom are the Research Analysts regulations applicable?

The SEBI Research Analyst Regulations are applicable to:

- (a) the REIT;
- (b) the Sponsor, Manager and Trustee of the REIT, as well as their respective directors and Associates;
- (c) Associates of the REIT;
- (d) all persons acting on behalf of the REIT; and
- (e) the Merchant Bankers, Connected Analysts, Syndicate Members and their respective affiliates and Associates.

3. What are the restrictions applicable to research reports?

Certain guidelines and procedures in relation to preparation and distribution of research reports are set forth below:

- (a) The Merchant Bankers or their affiliates should not distribute a research report anywhere in the world if anyone responsible for the preparation of such research report has had access to, or is in possession of, material information (whether or not reflected in the research report) that is not known to the public and will not be included in Draft Offer Document, Offer Document and Final Offer Document.
- (b) The research report should be, and present itself as, an outsider's view of the REIT and should be independently produced.
- (c) The source of the information shall be clearly acknowledged.
- (d) The research reports should also not contain any valuations or recommendations in relation to the securities of the companies.
- (e) The research reports must not contain any reference to the Issue or any information about the Issue.
- (f) The research reports shall be reviewed by the counsels to the Merchant Bankers prior to their publications.

X. GLOSSARY

Term	Definition
Anchor Investor	A QIB who makes an application for a value more than ₹ 100 million in a book built Issue
ASBA	Application Supported by Blocked Amount, an application mechanism used by ASBA Bidders to make a Bid, whether physical or electronic, by authorising an SCSB to block the Bid Amount in the ASBA Account
Associate	Associate of any person is as defined under the Companies Act, 2013 or under the applicable accounting standards and also includes (i) any person controlled, directly or indirectly, by the said person; (ii) any person who controls directly or indirectly the said person; (iii) where the said person is a body corporate, any person(s) who is designated as promoter(s) of the company or body corporate and any other company or body corporate with the same promoters; and (iv) where the said person is an individual, any relative of the individual
Auditor	The auditor of the REIT
Bid	An indication to make an offer during the Issue Period by a Bidder or during the Anchor Investor Issue Period by an Anchor Investor, to subscribe to or purchase Units of the REIT
Bidder	Any prospective investor, other than an Anchor Investor who makes a Bid in the Issue
Collecting Depository Participant/CDP	A depository participant as defined under the Depositories Act, 1996, registered with SEBI and who is eligible to procure Bids at the designated CDP locations in terms of the circular no. CIR / CFD / POLICYCELL / 11 / 2015 dated November 10, 2015 issued by SEBI
Connected Analysts	A research analyst or research entity that is an affiliate or associate of any of the Merchant Bankers

Continuous Disclosures Circular	Circular on continuous disclosures and compliances by REITs dated December 29, 2016 issued by SEBI
Designated Intermediaries	Syndicate, sub-syndicate/agents, SCSBs, Registered Brokers, CDPs and RTAs, who are authorized to collect ASBA Forms from the ASBA Bidders, in relation to the Issue
Draft Offer Document	A draft offer document, issued in accordance with the REIT Regulations and filed with SEBI and the Stock Exchanges including any addenda or corrigenda thereto filed with SEBI and the Stock Exchanges
Final Offer Document	Final Offer Document, filed with SEBI and the Stock Exchanges after the Pricing Date in accordance with the REIT Regulations and the SEBI Guidelines and includes any addenda or corrigenda thereto filed with SEBI and the Stock Exchanges
FSI	Floor Space Index
Holdco or Holding Company	A company or an LLP (i) in which the REIT holds or proposes to hold controlling interest and not less than 51% of the equity share capital or interest and which in turn has made investments in other SPVs, which ultimately hold the real estate assets; (ii) which is not engaged in any other activity other than holding of the underlying SPVs, holding of real estate properties and any other activities pertaining to and incidental to such holdings.
ICAI	Institute of Chartered Accountants of India
Ind AS	Indian Accounting Standards
Indian GAAP	Generally Accepted Accounting Principles in India
Institutional Investors	Institutional Investor means: (i) qualified institutional buyers; or (ii) family trust or systemically important NBFCs registered with the Reserve Bank of India or intermediaries registered with SEBI, all with net-worth of more than five hundred crore

	rupees, as per the last audited financial statements
Investment Management Agreement	Investment management agreement entered into between the Trustee (on behalf of the REIT) and the Manager
Issue	The issue of the Units of a REIT
Issue Closing Date	Except in relation to any Bids received from the Anchor Investors, the date after which the Designated Intermediaries will not accept any Bids
Issue Opening Date	Except in relation to any Bids received from the Anchor Investors, the date on which the Designated Intermediaries shall start accepting Bids
Issue Period	Period between the Issue Opening Date and the Issue Closing Date, inclusive of both days, during which Bidders, other than Anchor Investors, can submit their Bids, including any revisions thereof
LLP	A limited liability partnership as defined under the Limited Liability Partnership Act, 2008
MCA	Ministry of Corporate Affairs
Manager	A company, a body corporate or an LLP which manages the REIT Assets, manages the investments of the REIT and such other activities as specified under the REIT Regulations
Members of the Syndicate	The Merchant Bankers and the Syndicate Members
Merchant Banker	Merchant bankers, associated with the Issue and responsible for due diligence and other Issue related activities
Merchant Banker Regulations	The Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992
Offer Document	An offer document issued in accordance with the provisions of the REIT Regulations and the REIT Guidelines, including any addenda

	or corrigenda thereto filed with SEBI and the Stock Exchanges
Parties to the REIT	The Sponsor, Sponsor Group, the Trustee and the Manager
QIBs or Qualified Institutional Buyers	QIBs or qualified institutional buyers shall mean (i) a mutual fund, venture capital fund, alternative investment fund and foreign venture capital investor registered with SEBI, (ii) a foreign portfolio investor, other than Category III foreign portfolio investor, registered with SEBI, (iii) a public financial institution as defined in section 2(72) of the Companies Act, 2013, (iv) a scheduled commercial bank, (v) a multilateral and bilateral development financial institution, (vi) a state industrial development corporation, (vii) an insurance company registered with the IRDAI, (viii) a provident fund with minimum corpus of ₹ 250 million, (ix) a pension fund with minimum corpus of ₹ 250 million, (x) National Investment Fund set up by GoI, (xi) insurance funds set up and managed by army, navy or air force of the Union of India, or (xii) insurance funds set up and managed by the Department of Posts, India
REIT(s)	Real Estate Investment Trust(s)
REIT Assets	The assets owned by a REIT, whether directly or through a Holdco or SPVs or both, and includes all rights, interests and benefits arising from and incidental to the ownership of such assets
REIT Guidelines	The Guidelines for Public Issue of Units of REITs issued by SEBI through a circular bearing number CIR/IMD/DF/136/2016, dated December 19, 2016
REIT Regulations	The Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014, including any amendments guidelines and circulars issued by SEBI from time to time

Registered Brokers	Stock Brokers registered with the Stock Exchanges having nationwide terminals, other than the Members of the Syndicate, eligible to procure Bids in terms of Circular No. CIR/CFD/14/2012 dated October 4, 2012 issued by SEBI
Registrar	A registrar to the issue registered under the Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993
Registrar and Transfer Agents or RTAs	Registrar and transfer agents registered with SEBI and eligible to pure Bids at the designated RTA locations in terms of circular no. CIR/CFD/POLICYCELL/11/2015 dated November 10, 2015 issued by SEBI
Registration Act	The Registration Act, 1908
SEBI	The Securities and Exchange Board of India
SEBI Debenture Trustee Regulations	The Securities and Exchange Board of India (Debenture Trustee) Regulations, 1993, as amended from time to time
SEBI Intermediaries Regulations	The Securities and Exchange Board of India (Intermediaries) Regulations, 2008
SEBI Research Analyst Regulations	The Securities and Exchange Board of India (Research Analysts) Regulations, 2014, as amended from time to time
SPVs	A company or an LLP (i) in which either the REIT or the Holdco holds or proposes to hold controlling interest and not less than 51% of the equity share capital or interest; (ii) which holds not less than 80% of its assets directly in properties and does not invest in other SPVs; and (iii) which is not engaged in any other activity other than holding and developing property and any other activity incidental to such holding or development
Self Certified Syndicate Bank/SCSB	Banks registered with SEBI, offering services in relation to ASBA, a list of which is available on the website of SEBI at http:

	//www.sebi.gov.in/sebiweb/home/list/5/33/0/0/Recognised-Intermediaries and updated from time to time
Sponsor	A company, body corporate or an LLP which sets up the REIT and is designated as such at the time of making an application for registration of the REIT
Stock Exchanges	Any stock exchange where the Units of a REIT are proposed to be listed
Syndicate Members	Intermediaries, registered with SEBI who are permitted to carry out activities as an Underwriter
TDR	Transferable Development Rights
Transaction Documents	Documents, including but not limited to agreements, entered into by or on behalf of the REIT
Trust Deed	A trust deed entered into between the REIT, Sponsor and the Trustee
Trustee	A trustee is a person who holds the REIT Assets for the benefit of the Unitholders and is registered with SEBI under the Securities and Exchange Board of India (Debt and Equity Instruments Trustees) Regulations, 1993
Trusts Act	The Indian Trusts Act, 1882
Unit	A unit represents beneficial interest in the REIT, and such Units together represent the entire beneficial interest in the REIT
Unitholder(s)	Any person who holds Units of the REIT
Valuer	A valuer as defined under the REIT Regulations
Working Day	Working Day, with reference to (a) announcement of Price Band; and (b) Bid/Issue Period, shall mean all days, excluding Saturdays, Sundays and public holidays, on which commercial banks in Mumbai are open for business; and (c) the time period between the Bid/ Issue Closing Date and the listing of the Units on the Stock Exchanges, shall mean all trading days of Stock Exchanges, excluding Sundays and bank holidays, as per the SEBI Circular SEBI/HO/CFD/DIL/CIR/P/2016/26 dated January 21, 2016

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