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SECURITIES AND EXCHANGE BOARD OF INDIA
NOTIFICATION
Mumbai, the 22nd April, 2019

**SECURITIES AND EXCHANGE BOARD OF INDIA (INFRASTRUCTURE
INVESTMENT TRUSTS) (AMENDMENT) REGULATIONS, 2019**

No. SEBI/LAD-NRO/GN/2019/10. – In exercise of the powers conferred by section 30 read with sections 11 and 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014, namely,-

1. These regulations may be called the Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2019.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014, -
 - I. in regulation 14, in sub-regulation (4), in clause (c), the word “ten” shall be substituted with the word “one”.
 - II. in regulation 16, in sub-regulation (9), in clause (b), the words “be five lakh rupees” shall be substituted with the words and figure “consist of 100 units”.

III. in regulation 17, -

a. in sub-regulation (1), -

i. in clause (e), -

(i) the words “sponsor(s) or” shall be omitted.

(ii) the words “and investment manager” shall be inserted after the word “trustee’ and before the word “requests”.

ii. after the existing clause (e) and before clause (f), the following new clause shall be inserted, namely, -

“(ea) the trustee and the Investment Manager of a privately placed and listed InvIT chooses to convert InvIT to a privately placed unlisted InvIT and such request has been approved by unit holders in accordance with regulation 22: Provided that exit shall be provided to dissenting unitholders.”

b. in sub-regulation (6), the following non-obstante clause shall be inserted, namely,-

“Notwithstanding the above, in case the delisting is done in terms of clause (ea) of sub-regulation (1),the InvIT may retain its certificate of registration and continue to undertake the activity of a privately placed and unlisted InvIT as specified in Chapter VIA.”

IV. in regulation 20, -

a. in sub-regulation (2), -

i. the word “never” shall be substituted with the word “not”.

ii. the words “forty nine” shall be substituted with the word “seventy”.

b. in sub-regulation (3), the existing clauses (a) and (b) shall be substituted with the following clauses, namely, -

“a) upto forty nine percent, an InvIT shall -

- (i) obtain credit rating from a credit rating agency registered with the Board; and
- (ii) seek approval of unitholders in the manner as specified in Regulation 22.

b) above forty nine percent, an InvIT shall -

- (i) obtain a credit rating of “AAA” or equivalent for its consolidated borrowing and the proposed borrowing, from a credit rating agency registered with the Board;
- (ii) utilize the funds only for acquisition or development of infrastructure projects;
- (iii) have a track record of atleast six distributions, in terms of sub-regulation (6) of regulation 18, on a continuous basis, post listing, in the years preceding the financial year in which the enhanced borrowings are proposed to be made;
- (iv) obtain the approval of unitholders in the manner specified in sub-regulation (5A) of regulation 22.”

V. in regulation 21, in sub-regulation (5), the following proviso shall be inserted, namely, -

“Provided that in case the consolidated borrowings and deferred payments of an InvIT, in terms of Regulation 20, is above forty nine per cent, the valuation of the assets of such InvIT shall be conducted by the valuer for quarter ending June, September and December, for incorporating any key changes in the previous quarter and such quarterly report shall be prepared within one month from the date of the end of such quarter.”

VI. in regulation 22, -

- a. in sub-regulation (4), the existing clause (c) shall be substituting with the following clause, namely, -

“(c) any borrowing in terms of the limit specified under clause (a) of sub-regulation (3) of regulation 20;”

- b. in sub-regulation (5), in clause (c), -

i. the words “sponsor(s) or” shall be omitted.

ii. the words “trustee and” shall be inserted after the word “the” and before the words “investment manager”.

iii. after the word “InvIT”, the words “under clause (e) of sub-regulation (1) of regulation 17” shall be inserted.

- c. after the existing sub-regulation (5) and before the existing sub-regulation (6) , the following new sub-regulations shall be inserted, namely, -

“(5A) In case of any borrowing by an InvIT in terms of the limit specified in clause (b) of sub-regulation 3 of regulation 20, the approval from seventy five per cent. of the unit holders by value shall be obtained.

(5B) For delisting of units of InvIT in terms of clause (ea) of sub-regulation (1) of regulation 17, approval from not less than ninety per cent. of the unit holders by value shall be required and exit shall be provided to dissenting unitholders.”

VII. in regulation 23, -

- a. in sub-regulation (4) –

i. the words “the every” appearing after the words “the end of” and before the words “half year ending” shall be omitted.

ii. the word and number “March 31st and” shall be omitted.

iii. the following new proviso shall be inserted, namely, -

“Provided that for any InvIT, whose units are listed and whose consolidated borrowings and deferred payments, in terms of regulation 20, is above forty nine per cent., such InvIT shall also submit a quarterly report to the designated stock exchange within thirty days from the end of every quarter ending June and December.”

b. the existing sub-regulation (5) shall be substituted with the following, namely, -

“(5) Annual/ half yearly /quarterly reports shall contain disclosures as specified under Part-A, Part-B and Part-C, respectively, of Schedule IV.

VIII. after Chapter VI, the following new Chapter VIA shall be inserted –

“CHAPTER VIA

FRAMEWORK FOR PRIVATE PLACEMENT OF UNITS OF INVITS WHICH ARE NOT LISTED

26A. Applicability

(1) The provisions of this chapter shall apply to an InvIT, which proposes to issue units or has issued units, on a private placement basis in terms of these regulations.

(2) The units so issued or proposed to be issued shall not be eligible to be listed on recognised stock exchanges.

(3) All the provisions of these regulations applicable to an InvIT, whose units are privately placed and listed or proposed to be listed, shall be applicable to an InvIT issuing units/who has issued units under the provisions of this chapter, except for the following -

- (a) sub-regulation (4), (9),(10) and (22) of regulation 10;
- (b) sub-regulation (1A) and (2) of regulation 14;
- (c) regulation 16;
- (d) regulation 17;
- (e) regulation 20;
- (f) sub-regulation (6) of regulation 21;
- (g) sub-clause (iv) of clause (f) of sub-regulation (5) of regulation 22;
- (h) regulation 23;
- (i) sub-regulation (15) of regulation 9 in respect of obtaining prior approval of the Board for any change in the investment manager;
- (j) sub-regulation (17) of regulation 9 in respect of obtaining prior approval of the Board in case of change in control of the investment manager.

26B. Raising of funds and investments

(1) An InvIT raising funds by way of a private placement in terms of the provisions of this Chapter—

- (a) shall do it through a placement memorandum;
- (b) shall raise funds only from institutional investors and body corporates, whether Indian or foreign:
Provided that in case of foreign investors, such investment shall be subject to guidelines as may be specified by the Reserve Bank of India and the Government from time to time;
- (c) shall not accept from an investor, an investment of value less than rupees one crore;
- (d) shall not raise funds from more than twenty investors;
- (e) shall file a placement memorandum with the Board alongwith the fee as specified in Schedule II, atleast 5 days prior to opening of the issue;

- (f) shall file the final placement memorandum with the Board within a period of ten working days from the date of allotment of the units to the investors;
- (g) invest not less than eighty per cent of the value of the InvIT assets in eligible infrastructure projects either directly or through holdcos or through SPVs:

Provided that un-invested funds may be invested in instruments as provided under sub-clause (ii), (iii), (iv) and (v) of clause (b) of sub-regulation 5 of Regulation 18.

(2) An InvIT may undertake borrowing to the extent permitted under the trust deed, after seeking approval from such number of investors as specified in the trust deed.

26C. Disclosures

(1) An InvIT issuing units as per the provisions of this Chapter shall ensure that the disclosures in the placement memorandum are in accordance with sub-regulation (4) of regulation 15 and any circular or guideline issued by the Board in this regard.

(2) The investment manager of the InvIT shall submit annual report, half-yearly report and valuation report to the trustee and unit holders of the InvIT, either electronically or through physical copies.

(3) The annual and half yearly reports shall contain disclosures as specified under Schedule IV, to the extent applicable.

(4) The investment manager shall disclose to the trustee and unitholders any information having bearing on the operation or performance of the InvIT which includes but is not restricted to the following–

- (a) acquisition or disposal of any projects, directly or through holdco or SPV, value of which exceeds five per cent. of value of the InvIT assets;
- (b) additional issue of units by the InvIT;
- (c) details of any credit rating obtained by the InvIT and any change in such rating;
- (d) any issue which requires approval of the unit holders;
- (e) any legal proceedings which may have significant bearing on the functioning of the InvIT;
- (f) notices and results of meetings of unit holders,

- (g) any instance of non-compliance with these regulations including any breach of limits specified under the regulations;
- (h) any material issue that in the opinion of the investment manager or trustee needs to be disclosed to the unit holders.

26D. General

- (1) The investment manager shall be responsible for all activities pertaining to the issue of units including filing of placement memorandum with the Board and dealing with all matters relating to the allotment of units to the unit holders.
- (2) The investment manager shall ensure that disclosures made in the placement memorandum contains material, true, correct and adequate disclosures and are in accordance with these regulations and guidelines or circulars issued by the Board.
- (3) The investment manager shall ensure that the investments made by the InvIT are in accordance with the investment conditions as specified in this Chapter and in accordance with the investment strategy of the InvIT.
- (4) The investment manager shall ensure that the audit of accounts of the InvIT is done not less than once a year and such report is submitted to the trustee and unitholders, either electronically or through physical copies.

26E. Surrender of certificate

- (1) An InvIT which has issued units as per the provisions of this Chapter, may choose to surrender its certificate of registration to the Board and on acceptance of surrender of certificate of registration, it shall no longer undertake the activity of an InvIT.
- (2) The InvIT and parties to the InvIT shall continue to be liable for all their acts of omissions and commissions with respect to activities of the InvIT notwithstanding surrender of registration to the Board.

26F. Listing of units

An InvIT which has issued units in terms of the provisions of this Chapter, may list such units on a recognised stock exchange, subject to it complying with the requirements

specified for privately placed and listed InvIT under these regulations and in the manner specified by the Board from time to time.”

IX. in Schedule IV, -

- a. the word, symbol and letter “Part-A” shall be inserted before the title “Mandatory Disclosures in the Annual Report”.
- b. the word, symbol and letter “Part-B” shall be inserted before the title “Mandatory disclosures in the Half-yearly report”.
- c. after Part-B so numbered, the following new Part-C shall be inserted, namely, -

“Part -C Mandatory disclosures in the quarterly report

(A privately placed InvIT may only disclose the items, as may be applicable to its structure and activities)

1. Financial statements for the quarter; (Standalone and consolidated)
2. Updated valuation report by the valuer taking into account any material developments during the previous quarter
3. Any other material events during the quarter”

Sd/-

AJAY TYAGI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Footnote:

1. The Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 was published in the Gazette of India on September 26, 2014 vide No. LAD-NRO/GN/2014-15/10/1577.

2. The Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 was subsequently amended by the –
- a. Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2016, vide No. SEBI/LAD/NRO/GN/2016-17/021, with effect from November 30, 2016;
 - b. Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2017, vide No. SEBI/LAD-NRO/GN/2017-18/024, with effect from December 15, 2017.
 - c. Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2018, vide No. SEBI/LAD-NRO/GN/2018/07, with effect from April 10, 2018.
