Overview of Indian REIT and InvIT Regulations

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Presented by
Yash J. Ashar
Partner (Head – Markets)

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Two separate products in India for ‘infrastructure’ and ‘real estate’

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1 **InvITs** introduced with a view to:

- Provide wider and long term refinancing options for existing infrastructure projects
- Free up developer capital for reinvestment into new infra projects
- Creating bank headroom for new funding requirements.

2 **REITs** introduced with a view to:

- Primarily invigorate the cash strapped real estate sector
- Encourage retail participation in the commercial real estate sector
- Facilitate private participants to exit their investments in large commercial real estate projects

- Regulatory framework for both products similar
- a few key differences to address certain nuanced sectoral differences
  (Indian infra sector is relatively more regulated with both sectors having distinct business models, asset holding considerations and risk profiles)

Indian REITs and InvITs

- REIT and InvIT Regulations were introduced in 2014
- REIT Regulations only envisage public listed REITs
- InvIT Regulations on the other hand provide greater flexibility in terms of providing for public listed InvITs, private listed InvITs and private unlisted InvITs.
- First InvIT listing in 2017 – since 2017, 6 listed InvITs, two unlisted InvIT and three other listed InvITs which have filed draft offer documents

Indian REITs and InvITs

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- First REIT listing in 2019 – last two financial years have witnessed three REIT listings

- New avenue for institutional investment and exits (each of the REITs were backed by global PE players – with the most recent REIT being 100% PE backed, PE investors have partially exited through OFS as well as trades on the exchanges)

- Institutional investors have invested in the infrastructure sector through InvIT structures including the likes of KKR and Brookfield. Stakeholders could also consider using InvITs for debt restructuring and insolvency resolution

- Monetisation of infrastructure assets owned or operated by PSEs, including NHAI and PGCIL

How have we fared?

- Both products have witnessed increased retail participation and interest
- Governance and disclosure standards brought in line with mature business trusts jurisdictions across the world – boosting investor confidence (independent manager, NDCF)
- Prescribed asset mix to facilitate stable income (commercial and rent/ income generating assets, restriction on vacant land 80-20)
- Concerted action by various regulators to facilitate these products and address practical challenges with Indian infra and real estate holding structures and business models (permitting two level structures, tax pass through status, FEMA amendments etc.)
- Continued effort by the government to assimilate business trusts into the larger regulatory framework governing securities markets (Amendments to the SEBI Act, SCRA)
- Perpetual sponsor lock-in requirements done away with for REITs (in line with InvITs)
- Bank lending to InvITs permitted by the RBI
- Recognition of units and debt securities issued by REITs and InvITs as “securities” through the Finance Act

Wishlist for REITs and InvITs

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- Flexibility for innovative asset-types or holding structures to pursue a REIT or InvIT subject to commercial considerations
- Viable source of funding for listed REITs and InvITs - applicability of ECB framework
- Clarity on ability of bank lending to REITs (in line with InvITs)
- With the Finance Act being notified, ability of FPIs, insurance companies and pension funds to invest in debt securities
- Clarity regarding unlisted InvITs – borrowing, further capital raising, de-classification, migration to listing etc.
- Definition of ‘sponsor’ for InvITs to be aligned with REIT Regulations

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