



**MASTER CIRCULAR**

**SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/673**

**November 29, 2021**

**All Infrastructure Investment Trusts (“InvITs”)**

**All Parties to InvITs**

**All Recognised Stock Exchanges**

**All Merchant Bankers and other Intermediaries**

Madam/ Sir,

Sub: Master Circular for Infrastructure Investment Trusts (InvITs)

1. For effective regulation of Infrastructure Investment Trusts, Securities and Exchange Board of India (SEBI) has been issuing various circulars from time to time. In order enable the industry and other users to have an access to all the applicable circulars at one place, Master Circular for Infrastructure Investment Trusts has been prepared.
2. This Master Circular is a compilation of relevant circulars issued by SEBI up to October 31, 2021 which are operational as on date of this circular. Circulars providing temporary relaxations with regards to certain compliance requirements for InvITs in the wake of the COVID-19 pandemic have not been included in the master circular.
3. In case of any inconsistency between the master circular and the applicable circulars, the contents of the relevant circular shall prevail.

Yours faithfully,

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## Table of Contents

|  |     |
|--|-----|
| Chapter 1. Online Filing System for InvITs .....   | 4   |
| Chapter 2. Guidelines for public issue of units of InvITs.....   | 5   |
| Chapter 3. Financial information to be disclosed in offer document/placement memorandum .....            | 20  |
| Chapter 4. Continuous Disclosures and Compliances by InvITs .....  | 40  |
| Chapter 5. Participation by Strategic Investor(s) in InvITs .....  | 55  |
| Chapter 6. Guidelines for issuance of debt securities by InvITs.....                                     | 57  |
| Chapter 7. Guidelines for preferential issue and institutional placement of units by listed InvITs ..... | 59  |
| Chapter 8. Guidelines for filing of placement memorandum by InvITs proposed to be listed .....           | 68  |
| Chapter 9. Guidelines for rights issue of units by a listed InvIT .....                                  | 70  |
| Chapter 10. Guidelines for rights issue of units by an unlisted InvIT.....                               | 79  |
| Chapter 11. Requirement of minimum number and holding of unit holders for unlisted InvITs .....          | 83  |
| Chapter 12. Encumbrance on units of InvITs .....   | 84  |
| Chapter 13. Manner and mechanism of providing exit option to dissenting unit holders .....               | 85  |
| Annexures .....  | 97  |
| Annexure - 1 .....   | 98  |
| Annexure - 2 .....   | 103 |
| Annexure - 3 .....   | 106 |

|                                |            |
|--------------------------------|------------|
| <b>Annexure - 4</b> .....      | <b>107</b> |
| <b>Annexure - 5</b> .....      | <b>110</b> |
| <b>Annexure - 6</b> .....      | <b>112</b> |
| <b>Annexure - 7</b> .....      | <b>115</b> |
| <b>Annexure - 8</b> .....      | <b>118</b> |
| <b>Annexure - 9</b> .....      | <b>120</b> |
| <b>List of circulars</b> ..... | <b>121</b> |

## **Chapter 1. Online Filing System for InvITs<sup>1</sup>**

- 1.1. In order to facilitate ease of operations in terms of applying for registration, reporting and various compliances under SEBI (Infrastructure Investment Trusts) Regulations, 2014 (SEBI InvIT Regulations), SEBI has introduced an online system for filings related for InvITs. The online system can be used for application for registration, reporting and filing under the provision of aforesaid Regulations.
- 1.2. All applicants desirous of seeking registration as InvITs are now required to submit their applications online only, through SEBI Intermediary Portal at <https://siportal.sebi.gov.in>. Furthermore, all SEBI registered InvITs are required to file/submit/ apply for any request, as may be required under the provision of SEBI InvIT Regulations & Circulars issued thereunder, through the online system only. The aforesaid online filing system has been made operational.
- 1.3. Link for SEBI Intermediary Portal is also available on SEBI website - [www.sebi.gov.in](http://www.sebi.gov.in). In case of any queries and clarifications, users may refer to the manual provided in the portal or contact the Portal Helpline as specified in the manual.

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<sup>1</sup> Circular No. SEBI/HO/IMD/DF1/CIR/P/2017/83 dated July 24, 2017

## **Chapter 2. Guidelines for public issue of InvITs<sup>2</sup>**

### **2.1. Appointment and obligations of merchant banker and others:**

2.1.1. The Investment Manager on behalf of the InvIT, in line with Regulation 10 (5) of InvIT Regulations, shall appoint one or more merchant bankers, at least one of whom shall be a lead merchant banker and shall also appoint other intermediaries, in consultation with the lead merchant banker, to carry out the obligations relating to the issue.

2.1.2. Where the issue is managed by more than one merchant banker, the rights, obligations and responsibilities, relating inter alia to disclosures, allotment, refund and underwriting obligations, if any, of each merchant banker shall be predetermined and disclosed in the offer document.

### **2.2. Filing of offer document**

2.2.1. Draft offer document, offer document and final offer document shall mean as under:

- a) Draft offer document refers to the draft of the offer document filed with the Board and the stock exchanges.
- b) Offer document refers to the version of the offer document filed with the Board and the stock exchanges incorporating all updations except the price / price band.
- c) Final offer document refers to the version of the offer document filed with the Board and the stock exchanges including details with respect to pricing, allotment etc.

2.2.2. The draft offer document shall be filed with the Board and the designated stock exchanges in accordance with InvIT Regulations.

2.2.3. The lead merchant bankers shall submit the following to the Board along with the draft offer document:

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<sup>2</sup> Circular No. CIR/IMD/DF/55/2016 dated May 11, 2016

- a) a certificate, confirming that an agreement has been entered into between the Investment manager on behalf of the InvIT and the lead merchant bankers;
  - b) a due diligence certificate as per **Form A of Annexure - 1**.
- 2.2.4. The draft offer document shall be hosted on the websites as specified under Regulation 14(4)(f) of the InvIT Regulations and the period of hosting on the website for comments, if any, shall be at least twenty one days. The lead merchant banker shall file a statement with the Board giving information of the comments received by them or the InvIT or the parties to the InvIT on the draft offer document during that period and the consequential changes, if any, to be made in the draft offer document.
- 2.2.5. Subject to regulation 14(4)(g),(h) and (i)of InvIT Regulations, the Board may specify changes or issue observations, if any, on the draft offer document within the later of the following:
- a) thirty days from the later of the following dates:
    - i. the date of receipt of the draft offer document by the Board; or
    - ii. the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
    - iii. the date of receipt of a copy of in-principle approval letter issued by the recognised stock exchanges;
  - b) twenty one working days from the date of receipt of satisfactory reply from the lead merchant bankers, where the Board has sought any clarification or additional information from them;
- 2.2.6. The lead merchant banker shall ensure that all comments received from the Board on the draft offer document are suitably addressed prior to the filing of the offer document with the Board and designated stock exchanges;
- 2.2.7. The lead merchant banker shall submit the following documents to the Board along with the offer document:
- a) a statement certifying that all changes, suggestions and observations made by the Board have been incorporated in the offer document;
  - b) a due diligence certificate as per **Form B of Annexure - 1**

2.2.8. If changes are made in the draft offer document or offer document with respect to any of the following, the lead merchant banker shall file fresh draft offer document with the Board highlighting all changes made in the draft offer document or offer document, as applicable, along with the fees as specified in InvIT Regulations:

- a) Change in sponsor(s)/ Investment Manager or persons in control of the sponsor(s)/ Investment Manager.
- b) Change in more than half of the board of directors of the Investment Manager.
- c) Change in any object(s) of the issue contributing/amounting to more than 20% of the issue size.
- d) Any increase or decrease in estimated issue size by more than twenty five per cent.

2.2.9. All other changes/ updations in the draft offer document or offer document which are not covered under clause 2.2.8 above shall be carried out by the lead merchant banker and offer document with updated details shall be filed with the Board without fees.

2.2.10. The merchant banker shall, after filing the offer document with the Board, make a pre-issue advertisement on the website of the sponsor, investment manager and stock exchanges.

2.2.11. The merchant banker may also issue such pre-issue advertisement in any newspaper and on the website of the InvIT, if applicable.

### 2.3. **Allocation in public issue**

2.3.1. In an issue made through the book building process or otherwise, the allocation in the public issue shall be as follows:

- a) not more than 75% to Institutional Investors
- b) not less than 25% to other investors

[Explanation: Institutional investors is as defined under Regulation 2(1)(y) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.]<sup>3</sup>

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<sup>3</sup> Circular No. SEBI/HO/DDHS/CIR/P/2019/16 dated January 15, 2019

2.3.2. Investment manager on behalf of the InvIT may allocate upto 60% of the portion available for allocation to Institutional Investors to anchor investors as under:

- a) A strategic investor as defined under InvIT Regulations may participate in the issue under the category of Anchor Investor.
- b) An Anchor Investor shall make an application of a value of at least Rs. 10 crore in the public issue;  
Provided that in case of strategic investor, the aforesaid application value shall be subject to Regulation 2(1)(zza) of the InvIT Regulations.
- c) Allocation to Anchor Investors shall be on a discretionary basis and subject to the minimum of 2 investors for allocation upto Rs. 250 crore and minimum of 5 investors for allocation of more than Rs. 250 crore.
- d) The bidding for Anchor Investors shall open one day before the issue opening date and allocation to Anchor Investors shall be completed on the same day.
- e) If the price fixed as a result of book building is higher than the price at which the allocation is made to Anchor Investor, 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 Investor, 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) The number of units allocated to Anchor Investors and the price at which the allocation is made, shall be made available on the website of the stock exchange(s), sponsor(s), investment manager and merchant banker(s) before opening of the issue.
- g) There shall be a lock-in of 30 days on the units allotted to the Anchor Investor from the date of allotment in the public issue.  
Provided that the lock-in for strategic investors shall be one year from the date of allotment in the public issue.
- h) [Neither the merchant bankers(s) nor any associate of the merchant bankers, other than mutual funds sponsored by entities which are associate of the merchant bankers or insurance companies promoted by entities which are associate of the merchant bankers or pension funds of entities which are



associate of the merchant bankers or Alternate Investment Funds (AIFs) sponsored by the entities which are associate of the merchant bankers or FPIs other than Category III sponsored by the entities which are associate of the merchant bankers, shall apply under the Anchor Investors category.]<sup>4</sup>

- i) The parameters for selection of Anchor Investor shall be clearly identified by the merchant banker.

#### **2.4. Application and Abridged version of the offer document.**

- 2.4.1. The application form and the abridged version of the offer document as stated in Regulation 14(4)(n) of the InvIT Regulations for the issue shall be prepared by the lead merchant banker.
- 2.4.2. The lead merchant banker shall make arrangements for distribution of the application form along with a copy of the abridged version of the offer document.
- 2.4.3. The abridged version of the offer document shall contain the disclosures as specified in Annexure - 3 and shall not contain any matter extraneous to the contents of the offer document.
- 2.4.4. No person shall make an application in the public issue for that number of units which exceeds the number of units offered to public.

#### **2.5. Security Deposit**

- 2.5.1. The Investment Manager on behalf of the InvIT shall deposit, before the opening of subscription, and keep deposited with the stock exchange(s), an amount calculated at the rate of 0.5% of the amount of units offered for subscription to the public or Rs 5 crore, whichever is lower.
- 2.5.2. The manner of deposit/refund/release/forfeiture of such deposit shall be in the manner specified by the stock exchange(s) and by the Board from time to time.

#### **2.6. Opening of an issue and subscription period.**

- 2.6.1. An issue shall be opened after at least five working days from the date of filing the final offer document with the Board.

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<sup>4</sup> Circular No. SEBI/HO/DDHS/CIR/P/2019/16 dated January 15, 2019

2.6.2. The lead merchant banker shall submit a due diligence certificate as per Form C of Annexure - 1, immediately before the opening of the issue.

2.6.3. A public issue shall be kept open for at least three working days but not more than thirty days. However, in case the price band in a public issue made through the book building process is revised, the bidding (issue) period disclosed in the final offer document shall be extended for a minimum period of one working day, provided however that the total bidding period shall not exceed thirty days.

Provided the price revision can be done maximum twice during the bidding period.

[Provided further, that in case of force majeure, banking strike or similar circumstances, the InvIT, for reasons to be recorded in writing, may extend the bidding (issue) period disclosed in the offer document, for a minimum period of three working days, subject to total bidding period not exceeding thirty days.]<sup>5</sup>

2.6.4. The investment manager on behalf of the InvIT may issue advertisements for issue opening and issue closing.

## **2.7. Underwriting.**

2.7.1. Where the InvIT desires to have the issue underwritten, it shall appoint the underwriters in accordance with SEBI (Underwriters) Regulations, 1993.

2.7.2. The merchant bankers and syndicate members shall not subscribe to the issue in any manner except for fulfilling their underwriting obligations.

2.7.3. In case of underwritten issue, the lead merchant banker or the lead book runner shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.

## **2.8. Price and price band**

2.8.1. The investment manager on behalf of the InvIT may determine the price of units in consultation with the lead merchant banker or through the book building process.

2.8.2. Differential price shall not be offered to any investor.

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<sup>5</sup> Circular No. SEBI/HO/DDHS/CIR/P/2019/16 dated January 15, 2019

- 2.8.3. The investment manager on behalf of the InvIT shall announce the floor price or price band at least [two]<sup>6</sup> working days before the opening of the bid (in case of an initial public offer) on the website of the sponsor, investment manager and stock exchanges and in all the newspapers in which the pre issue advertisement was released and website of InvIT, if applicable.
- 2.8.4. The announcement referred to in clause 2.8.3 above shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section titled “basis of issue price” in the final offer document.
- 2.8.5. The floor price or price band and the relevant financial ratios referred to in clause 2.8.4 shall be disclosed on the websites of those stock exchanges where the units are proposed to be listed.
- 2.8.6. The floor price or price band shall be pre-filled in the application forms available on the websites of the stock exchanges.
- 2.8.7. The Investment manager on behalf of the InvIT shall, in consultation with lead book runner, determine the issue price based on the bids received.
- 2.8.8. Once the final price (cut-off price) is determined, all those bidders whose bids have been found to be successful (i.e. at and above the final price or cut-off price) shall be entitled for allotment of units.
- 2.8.9. The lead merchant banker may reject a bid placed by a qualified institutional buyer for reasons to be recorded in writing provided that such rejection shall be made at the time of acceptance of the bid and the reasons therefore shall be disclosed to the bidders.

## **2.9. Bidding process**

- 2.9.1. [The InvIT shall accept bids using only the Application Supported by Blocked Amount (ASBA) facility for making payment i.e. writing their bank account numbers and authorising the banks to make payment in case of allotment, by signing the application forms. Further, the bidding process shall be done only through an electronic bidding platform provided by recognised stock exchanges.

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<sup>6</sup> Circular No. SEBI/HO/DDHS/CIR/P/2019/16 dated January 15, 2019

2.9.2. An investor, intending to subscribe to a public issue, shall submit a completed bid-cum-application form to Self-Certified Syndicate Banks (SCSBs), with whom the bank account to be blocked is maintained or any of the following intermediaries:

- a) A syndicate member (or sub-syndicate member)
- b) A stock broker registered with a recognised stock exchange
- c) A depository participant ('DP')
- d) A registrar to an issue and share transfer agent ('RTA')

2.9.3. Role of intermediaries:

- a) Intermediaries accepting the application forms shall be responsible for uploading the bid along with other relevant details in application forms on the electronic bidding system of stock exchange(s) and submitting the form to SCSBs for blocking of funds (except in case of SCSBs, where blocking of funds will be done by respective SCSBs only).
- b) All applications shall be stamped and thereby acknowledged by the intermediary at the time of receipt.

2.9.4. Role of Stock Exchanges:

- a) Stock Exchanges to provide transparent electronic bidding facility.
- b) Stock exchange(s) shall validate the electronic bid details with depository's records for DP ID, Client ID and PAN, by the end of each bidding day and bring the inconsistencies to the notice of SCSBs or intermediaries concerned, for rectification and re-submission within the time specified by stock exchange(s).
- c) Stock exchange(s) shall allow modification of selected fields viz. DP ID/Client ID or Pan ID (Either DP ID/Client ID or Pan ID can be modified but not BOTH), Bank code and Location code in the bid details already uploaded on a daily basis upto timeline as has been specified.
- d) The stock exchanges shall develop the systems to facilitate the investors to view the status of their public issue applications on their websites and sending the details of applications and allotments through SMS and E-mail alerts to the investors.

- 2.9.5. The blocking of funds accompanied with any revision of Bid, shall be adjusted against the amount blocked at the time of the original bid or the previously revised bid.]<sup>7</sup>
- 2.9.6. The lead merchant banker shall ensure that adequate infrastructure is available with syndicate members for data entry of the bids in a timely manner.
- 2.9.7. The bidding terminals shall contain an online graphical display of demand and bid prices updated at periodic intervals, not exceeding thirty minutes.
- 2.9.8. The investment manager on behalf of the InvIT may decide to close the bidding by qualified institutional buyers one day prior to the closure of the issue subject to the condition that bidding shall be kept open for a minimum of three days for all categories of applicants and suitable disclosures made in the draft offer document and offer document.
- 2.9.9. No investor shall either withdraw or lower the size of bids at any stage.
- 2.9.10. The identity of Institutional Investors other than strategic investors making the bidding shall not be made public.
- 2.9.11. The stock exchanges shall continue to display on their website, the data pertaining to book built issues in a uniform format, inter alia giving category-wise details of bids received, for a period of atleast three days after closure of bids.

**2.10. Allotment procedure and basis of allotment.**

- 2.10.1. On receipt of the sum payable on application, the investment manager on behalf of the InvIT shall allot the units to the applicants.
- 2.10.2. The allotment of units to applicants other than anchor investors shall be on proportionate basis within the specified investor categories and the number of units allotted shall be rounded off to the nearest integer, subject to minimum allotment as per InvIT Regulations.
- 2.10.3. In case of under-subscription in any investor category, the unsubscribed portion in either of the category specified in clause 2.3.1 may be allotted to applicants in the other category.

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<sup>7</sup> Circular No. SEBI/HO/DDHS/CIR/P/2019/16 dated January 15, 2019

2.10.4. The authorized representatives of the designated stock exchange along with the post issue lead merchant bankers and registrars to the issue shall ensure that the basis of allotment is finalized in a fair and proper manner.

**2.11. Maintenance of books and records**

2.11.1. A final book of demand showing the result of the allocation process shall be maintained by the lead book runner.

2.11.2. The book runner/s and other intermediaries associated in the book building process shall maintain records of the book building prices.

**2.12. Post- issue reports.**

2.12.1. The lead merchant banker shall submit the following post-issue reports to the Board:

- a) initial post issue report as specified in Part A of Annexure - 2, within three working days of closure of the issue.
- b) final post issue report as specified in Part B of Annexure - 2, within fifteen days of the date of finalization of basis of allotment or within fifteen days of refund of money in case of failure of issue.

2.12.2. The lead merchant banker shall submit a due diligence certificate along with the final post issue report as per Form D of Annexure - 1.

**2.13. Public communications, publicity materials, advertisements and research reports.**

2.13.1. Any public communication including advertisement, publicity material, research reports, etc. concerned with the issue shall not contain any matter extraneous to the contents of the offer document.

*Explanation: Public communication includes but not limited to corporate, project and issue advertisements of the InvIT, interviews by its sponsors, investment manager, trustee, project manager, directors of any of the parties to the InvIT, duly authorized employees or representatives of the InvIT/Investment manager,*

*documentaries about the InvIT or its sponsors, periodical reports, press releases, etc.*

2.13.2. The Investment manager on behalf of the InvIT shall make prompt, true and fair disclosure of all developments taking place between the date of filing offer document with the Board and the date of allotment of units which may have a material effect on the InvIT, by issuing public notices on the website of the sponsor, investment manager and stock exchanges and in all the newspapers in which the pre issue advertisement was released and website of InvIT, if applicable.

2.13.3. In respect of all public communications, the Investment manager on behalf of the InvIT shall obtain approval from the lead merchant bankers responsible for marketing the issue.

2.13.4. Any such public communication shall comply with the following:

- a) it shall be truthful, fair and shall not be manipulative or deceptive or distorted.
- b) it shall not contain any statement or promise which is untrue or misleading.
- c) if it reproduces or purports to reproduce any information contained in an offer document, it shall reproduce such information in full and disclose all relevant facts and not be restricted to select extracts relating to that information.
- d) it shall be set forth in a clear, concise and understandable language.
- e) it shall not include any issue slogans or brand names for the issue except the normal commercial name of the sponsor/investment manager.
- f) it shall not use extensive technical, legal terminology or complex language and excessive details which may distract the investor.
- g) it shall not display models, celebrities, fictional characters, landmarks or caricatures or the likes.
- h) no issue advertisement shall appear in the form of crawlers (the advertisements which run simultaneously with the programme in a narrow strip at the bottom of the television screen) on television.
- i) in any issue advertisement on television screen, the risk factors shall not be scrolled on the television screen and the advertisement shall advise the

viewers to refer to the red herring prospectus or other offer document for details.

- j) it shall not contain slogans, expletives or non-factual and unsubstantiated titles.
- k) if it contains highlights, it shall also contain risk factors with equal importance in all respects including print size of not less than point seven size.

2.13.5.No such public communication shall be issued giving any impression that the issue has been fully subscribed or oversubscribed during the period the issue is open for subscription.

2.13.6.No such public communication shall contain any offer of incentives, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise.

2.13.7.[The merchant bankers shall submit a compliance certificate in respect of news reports appearing for the period between the date of filing the draft offer document with the Board and the date of closure of the issue in accordance with the Clause (11) of Schedule IX of SEBI (Issue Of Capital And Disclosure Requirements) Regulations, 2018.]<sup>8</sup>

#### **2.14.Other Obligations of Post-issue lead merchant banker**

2.14.1.Obligations of the post-issue merchant banker with respect to refund, allotment, payment of interest to applicants in case of delayed allotment/refund, etc. are as per the disclosure in the offer document.

2.14.2.The post-issue lead merchant banker shall regularly monitor redressal of investor grievances relating to post-issue activities such as allotment, refund, etc.

2.14.3.The post-issue merchant banker shall ensure that advertisement giving details relating to oversubscription, basis of allotment, number, value and percentage of all applications, number, value and percentage of successful allottees for all applications, date of completion of dispatch of refund orders or instructions to Self-

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<sup>8</sup> Circular No. SEBI/HO/DDHS/CIR/P/2019/16 dated January 15, 2019



Certified Syndicate Banks by the Registrar, date of dispatch of certificates and date of filing of listing application, etc. is released within ten days from the date of completion of the above activities on the website of the InvIT, sponsor, investment manager, stock exchanges and in all the newspapers in which the pre issue advertisement was released, if applicable .

2.14.4. The post-issue merchant banker shall ensure that InvIT, advisors, brokers or any other entity connected with the issue do not publish any advertisement stating that issue has been oversubscribed or indicating investors' response to the issue, during the period when the public issue is still open for subscription by the public.

2.14.5. The post-issue merchant banker shall continue to be responsible for post-issue activities till the subscribers have received credit to their demat account or refund of application moneys and the listing agreement is entered into by the InvIT with the stock exchange and listing/ trading permission is obtained.

#### 2.15. **General conditions:**

2.15.1. **Restrictions on issue:** No InvIT shall make a public issue of units, if the InvIT or parties to the InvIT or the promoter(s) or director(s) of parties to the InvIT:

- a) is debarred from accessing the securities market by the Board;
- b) is a promoter, director or person in control of any other company or a sponsor, investment manager or trustee of any other InvIT or InvIT which is debarred from accessing the capital market under any order or directions made by the Board;
- c) is in the list of the wilful defaulters published by the Reserve Bank of India.

2.15.2. **Alteration of rights of holders of units:** No InvIT shall alter the terms (including the terms of issue) of units which may adversely affect the interests of the holders of that units unless a resolution to that effect is passed at a meeting of the unitholders in accordance with Regulation 22(5) of InvIT Regulations.

2.15.3. **Prohibition on payment of incentives:** No person connected with the issue, including a person connected with the distribution of the issue, shall offer any

incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application for allotment of units:

**Provided** that nothing contained in this regulation shall apply to fees or commission for services rendered in relation to the issue.

**2.15.4.Appointment of Compliance Officer:** The compliance officer designated by the investment manager under Regulation 10(25) of the InvIT Regulations shall be responsible for monitoring the compliance of the securities laws and for redressal of investors' grievances.

**Explanation:** For the purpose of this clause, the term "securities laws" shall mean SEBI Act, 1992, SCRA, 1956, Depositories Act, 1996 and rules and regulations made thereunder, general or special orders, guidelines or circulars made or issued thereunder.

#### **2.15.5.General obligations of Merchant Bankers**

- a) The lead merchant bankers shall exercise due diligence and satisfy himself about all the aspects of the issue including the veracity and adequacy of disclosure in the offer documents.
- b) The lead merchant bankers shall call upon the InvIT, parties to the InvIT or directors of the parties to the InvIT or in case of an offer for sale, the selling unit holders, to fulfill their obligations as disclosed by them in the offer document and as required in terms of these guidelines.
- c) The responsibility of the lead merchant banker with respect to due diligence shall continue even after the completion of issue process.
- d) The lead merchant banker shall ensure that the information contained in the offer document and the particulars as per audited financial statements in the offer document are not more than six months old from the issue opening date.
- e) The Investment manager on behalf of the InvIT shall ensure that transactions in units by the sponsor and its associates during the period between the date of filing the offer document with the Board /designated stock exchange, as the case may be and the date of closure of the issue shall be reported to the

recognised stock exchanges where the units of the InvIT are listed or going to be listed, within twenty four hours of the transactions.

**2.16. Power to relax strict enforcement of these guidelines.**

The Board may, in the interest of investors or for the development of the securities market, relax the strict enforcement of any requirement of these guidelines, if the Board is satisfied that:

- a) the requirement is procedural in nature; or
- b) any disclosure requirement is not relevant for a particular sector/sub-sector or InvIT; or
- c) the non-compliance was caused due to factors beyond the control of the InvIT.
- d) any provision of Act(s), Rule(s), regulation(s) under which the InvIT is established or is governed by, is required to be given precedence to; or
- e) the requirement may cause undue hardship to investors.

**Chapter 3. Financial information to be disclosed in offer document/placement memorandum<sup>9</sup>**

**(A) Financial Information of InvIT:**

The financial information, to be disclosed in the offer document/placement memorandum, shall comply with the following:

**3.1. Period of financial information to be disclosed:**

3.1.1. The offer document / placement memorandum shall contain financial information for a period of last three completed financial years immediately preceding the date of offer document / placement memorandum.

3.1.2. If the closing date of the last completed financial year falls more than six months before the date of offer document / placement memorandum, then the InvIT shall also disclose interim financial information, in addition to the three year financial information referred in para 3.1.1 above.

The said interim financial information shall be not more than six months old from the date of offer document / placement memorandum.

**3.2. Nature of financial information**

3.2.1. InvIT shall disclose the financial information for the previous three financial years and the interim period, if any, in either of the following manner depending upon the history of the InvIT:

a) If the InvIT has been in existence for the last three completed financial years immediately preceding the date of offer document / placement memorandum, then the historical financial statements of the InvIT (on both standalone as well as consolidated basis) for last three years, and the interim period, if any, shall be disclosed.

b) If the InvIT has been in existence for a period lesser than the last three completed financial years and the historical financial statements of InvIT are not available for some portion or the entire portion of the reporting

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<sup>9</sup> Circular No. CIR/IMD/DF/114/2016 dated October 20, 2016

period of three years and interim period, then the combined financial statements need to be disclosed for the periods when such historical financial statements are not available.

The principles for preparation of combined financial statements are discussed in Section '(G)' below.

### **3.3. Content and basis of preparation of financial information:**

3.3.1. The financial information shall be prepared in accordance with Indian Accounting Standards (Ind AS) and/or any addendum thereto as defined in Rule 2 (1) (a) of the Companies (Indian Accounting Standards) Rules, 2015.

3.3.2. The financial information presented by the InvIT can be in the form of condensed financial statements. Such financial information shall comply with the minimum requirements for condensed financial statements as described in Ind AS 34 on 'Interim Financial Reporting', to the extent applicable.

3.3.3. The financial information shall, inter-alia, disclose the following financial statements:

- a) Balance Sheet;
- b) Statement of Profit and Loss/Income and Expenditure;
- c) Statement of Changes in Unit holders' Equity;
- d) Statement of Cash Flows;
- e) Statement of Net Assets at Fair Value
- f) Statement of Total Returns at Fair Value
- g) Explanatory notes annexed to, or forming part of, any statements referred above

For the financial statements listed above, the minimum information to be disclosed is given in Section '(H)' below.

3.3.4. The financial information shall be disclosed after making the following adjustments, wherever applicable and wherever quantification is possible:

- a) Adjustments/rectifications for all incorrect accounting practices or failures to make provisions or other matters which resulted in modified opinion(s) or modification(s) to the opinion in the auditor's report.

Modified opinion(s), where quantification is not possible and which have not been adjusted, shall be highlighted along with the management comments. If the impact of above adjustments/ rectifications is not considered ascertainable, then a statement to that effect shall be given by the auditors.

- b) Material amounts relating to adjustments for prior period errors/items (as discussed in Ind AS 8 'Accounting Policies, Changes in Accounting Estimates and Errors') shall be identified and adjusted in arriving at the profits of the years to which they relate.
- c) Where there has been a change in accounting policy, the profits or losses/incomes or expenditures of the earlier years (required to be disclosed in the offer document/ placement memorandum) and of the year in which the change in the accounting policy has taken place shall be recomputed to reflect what the profits or losses/incomes or expenditures of those years would have been if a uniform accounting policy was followed in each of these years.
- d) If any accounting policy followed in past was not in compliance with applicable laws and/or accounting standards, the financial statements shall be adjusted and recomputed in accordance with correct accounting policies.
- e) The Balance Sheet shall be prepared after deducting the balance outstanding on Revaluation reserve account from both Fixed assets and Reserves and the Net worth should be arrived at after such deductions.

3.3.5. Financial statements shall disclose all 'material' items, i.e., the items if they can, individually or collectively, influence the economic decisions made on the basis of the financial statements. Materiality shall be judged and determined by the Investment Manager depending upon pertinent facts and circumstances, including the size or nature of the item or a combination of both. In addition to the consideration of 'materiality' as specified above, any item of income or expenditure, which exceeds one per cent of the revenue from

operations or Rs.10 lacs, whichever is higher, shall be disclosed separately either on the face of financial statements or in the schedules/notes.

### **3.4. Additional financial disclosures**

In addition to the financial statements referred in Paragraph 3.3 above, the following statements/disclosures shall also be included as a part of the audited financial information and shall also be subjected to audit:

#### **3.4.1. Project wise operating cash flows:**

The InvIT shall disclose operating cash flow from the projects (project-wise) for all the InvIT assets that are included in such financial information for the last three years and interim period, if any.

#### **3.4.2. Earnings per Unit:**

The InvIT shall disclose Earnings per Unit (EPU) for the last three years and the interim period, if any. The principles for computation of EPU shall be same as the principles laid down in Ind AS 33 Earnings per Share, to the extent applicable. Relevant disclosures shall be provided as part of the notes for the EPU computation.

#### **Contingent liabilities:**

- a) A statement of InvIT's Contingent liabilities, if any, as on the date of latest financial information disclosed in the offer document/placement memorandum, shall be disclosed.
- b) If there are any material changes in the contingent liabilities from the aforementioned date of latest financial information to the date of the offer document / placement memorandum, the details of such changes shall be disclosed in the offer document / placement memorandum.

#### **3.4.3. Commitments:**

- a) A statement of InvIT's Commitments, if any, as on the date of latest financial information disclosed in the offer document/placement memorandum, shall be disclosed.

- b) If there are any material changes in the commitments from the aforementioned date of latest financial information to the date of the offer document / placement memorandum, the details of such changes shall be disclosed in the offer document / placement memorandum.

**3.4.4. Related party transactions:**

- a) For the related parties as defined in the InvIT regulations, the InvIT shall provide relevant disclosures of all related party transactions in compliance with the requirements of “Ind AS 24 - Related Party Disclosures”.
- b) In addition to the disclosures required as per Ind AS 24, the following additional disclosures related to Related parties and Related party transactions shall also be included:
- i. Details of related party and its relationship with InvIT;
  - ii. Nature of the transaction;
  - iii. Value of the transaction;
  - iv. In case of any related party transaction involving acquisition or disposal of an InvIT asset, the following additional information shall be provided
    - Summary of valuation report;
    - Material conditions or obligations in relation to the transaction;
    - Rate of interest, if external financing has been obtained for the transaction/acquisition; and
    - Any fees or commissions received or to be received by any associate of the related party in relation to the transaction.

**3.4.5. Capitalisation statement**

An InvIT shall disclose a Capitalisation Statement showing total debt, net worth, and the debt/equity ratios before and after the completions of issue. An illustrative format of the Capitalisation Statement is specified hereunder:

| <b>Particulars</b>  | <b>Pre-issue as at ....</b> | <b>As adjusted for issue</b> |
|---------------------|-----------------------------|------------------------------|
| (Amount)            |                             |                              |
| Total Debt          | xx                          | xx                           |
| Unit holders' Funds |                             |                              |
| Unit Capital        | xx                          | xx                           |
| Xx                  | xx                          | xx                           |



|          |    |    |
|----------|----|----|
| xx       | xx | xx |
| Reserves | xx | xx |

Provided that in case of any change in the Unit Capital (since the date from which the financial information has been disclosed in the Offer document/placement memorandum), a note explaining the nature of the change shall be given.

#### 3.4.6. Debt payment history

A statement including history of interest and principal payments of InvIT shall be disclosed for past three years and interim period, if any, covering all InvIT assets forming part of the historical financial information. Additionally, the following shall also be disclosed:

- The carrying amount of debt at the beginning of each year
- Additional borrowings during the year
- Repayments during the year
- Other adjustments / settlements during the year
- The carrying amount of debt at the end of each year

### 3.5. **Audit of Financial Information:**

3.5.1. The financial information shall be audited and the following shall be complied with respect to same:

- a) The audit shall be carried out by the auditor appointed for the InvIT as per the InvIT regulations. The auditor, so appointed, shall be the one who has subjected himself to the peer review process of the Institute of Chartered Accountants of India (ICAI) and who holds a valid certificate issued by the Peer Review Board of ICAI.
- b) In providing his report, the auditor shall be guided by the requirements of the 'Guidance Note on Reports in Company Prospectuses', issued by ICAI, to the extent applicable.
- c) In particular, the reports of the auditors on the financial statements of the various InvIT assets (whether prepared in accordance with the framework

applicable to such InvIT assets or the framework applicable to the InvIT) for the respective periods covered in the period of three years and the interim period, if any, will have to be taken into consideration and the same shall be relied upon by the auditor giving the final report.

For the audit procedures to be followed in such case, the auditor shall be guided by the procedures stated in the Standard on Auditing (SA) 600, "Using the Work of another Auditor", to the extent applicable. Further, the fact that the financial statements audited by other auditors have been relied upon shall be disclosed in the audit report.

- d) As a part of the audit report, the auditor shall state whether:
- i. he has obtained all information and explanations which, to the best of his knowledge and belief, were necessary for the purpose of his audit;
  - ii. the Balance Sheet and the Statement of Profit and loss/Income and Expenditure are in agreement with the books of account of the InvIT; and
  - iii. the financial statements comply with the applicable accounting standards in his opinion.
- e) As a part of the audit report, the auditor shall give his opinion as to whether:
- i. the balance sheet gives a true and fair view of the state of affairs of the InvIT as at the balance sheet dates;
  - ii. the statement of profit and loss/income and expenditure gives a true and fair view of the InvIT's profits or losses/incomes or expenditures for the years/periods ended at the balance sheet dates;
  - iii. the cash flow statement gives a true and fair view of the cash movements of the InvIT for the years/periods ended at the balance sheet dates;
  - iv. the statement of changes in unit holders' equity gives a true and fair view of the movement of the unit holders funds for the years/periods ended at the balance sheet dates;

- v. the statement of net assets at fair value gives a true and fair view of the net assets as at the balance sheet date; and
- vi. the statement of total returns at fair value gives a true and fair view of the total returns for the years/periods ended at the balance sheet dates.

## **(B) Projections of InvIT's Revenues and Operating Cash flows**

3.6. The offer document/placement memorandum shall contain disclosures of the projections of revenues and operating cash flows of the InvIT, project-wise, over the next three years including related assumptions.

3.7. The projections shall be disclosed for InvIT assets/projects that are owned by the InvIT or are proposed to be owned by InvIT prior to the allotment of units in the public offer/private placement.

3.8. The following minimum items shall be disclosed as a part of the projections for the next three years:

- Project-wise revenue
- Project-wise operating cash flows
- Assumptions for projections
- Any other item deemed important for better readability and understanding

3.9. The aforesaid projections, including assumptions, shall be certified by the auditor. For the purpose of said certification, the auditor shall be guided by the requirements of SAE 3400 for 'The Examination of Prospective Financial Information' and any other relevant standards/directions issued by ICAI in this context.

3.10. Further, the aforesaid projections (including the underlying assumptions and calculations) shall also be certified by the Investment Manager.

## **(C) Management Discussion and Analysis of InvIT's operations**

3.11. InvIT shall prepare and disclose Management Discussion and Analysis (MDA) (by the Investment Manager), based on the financial statements. A comparison shall be provided for the most recent financial information with financial information of previous two years.

3.12. MDA shall, inter-alia contain the following :

- Overview of the business of the InvIT
- A summary of the financial information containing significant items of income and expenditure.
- Factors that may affect results of the operations, key risks and mitigating factors
- Quality of earnings and revenue streams
- Significant developments subsequent to the last financial year:
  - A statement by the Investment Manager whether in their opinion there have arisen any circumstances since the date of the last financial statements as disclosed in the offer document and which materially and adversely affect or is likely to affect the business or profitability of the InvIT, or the value of its assets, or its ability to pay its liabilities within the next twelve months.
- Procedure for dealing with and approval of related party transactions
- Related party transaction(s) involving acquisition or disposal of an InvIT asset
  - The analysis shall discuss impact of such acquisition/disposal on the yield of the units of InvIT
- An analysis of reasons for the changes in significant items of income and expenditure shall also be given, inter alia, containing the following:
  - unusual or infrequent events or transaction;
  - significant economic changes that materially affected or are likely to affect income from continuing operations;
  - known trends or uncertainties that have had or are expected to have a material adverse impact on revenues from continuing operations;

- future changes in relationship between costs and revenues, in case of events such as future increase in operating costs that will cause a material change are known;
- total turnover from each major segments of the InvIT
- status of any publicly announced new business segment;
- the extent to which business is seasonal;
- any significant dependence on a single or few suppliers or customers;
- Competitive conditions.

## **(D) Other Disclosures for InvIT**

### **3.13. Working Capital**

A statement from Investment Manager regarding sufficiency of the working capital to fulfill the present requirements of InvIT (i.e., at least twelve months from date of listing) shall be disclosed. In case, sufficient working capital is not available in the opinion of Investment Manager, then a statement should be provided describing how it proposes to provide additional working capital requirement.

### **3.14. Past Market Performance**

In case of a capital offering subsequent to the initial offer, the market value of the units traded on all the designated stock exchanges where InvIT is listed shall be disclosed:

- on the last date of reporting period
- highest value during reporting period based on intra-day and on closing price with specified date
- lowest value during reporting period intra-day and on closing price with specified date

## **(E) Historical Financial information of Investment Manager and Sponsor(s)**

3.15. An offer document/placement memorandum of InvIT shall include summary of the audited consolidated financial statements (including the Balance Sheet and Statement of Profit and Loss (without schedules)) of Investment Manager and Sponsor(s) for past three completed years, prepared in accordance with accounting standards, as applicable, as per the Companies Act, 2013 and rules thereunder.

*For example, if the concerned entity is required to follow Companies (Accounting Standards) Rules, 2006 during the entire period of last three years, then the three year financial information of such entity shall be prepared in accordance with Companies (Accounting Standards) Rules, 2006. Similarly, if the concerned entity is required to follow Companies (Indian Accounting Standards) Rules, 2015 during the entire period of last three years, then the three year financial information shall be prepared in accordance with Companies (Indian Accounting Standards) Rules, 2015.*

3.16. In case the Investment Manager and/or Sponsor(s) has/have done a transition from Companies (Accounting Standards) Rules, 2006 to Companies (Indian Accounting Standards) Rules, 2015 at any time during the period of last three years, then the financial information for the last three years shall be disclosed on the following basis:

- a) If the concerned entity is following or is required to follow Companies (Indian Accounting Standards) Rules, 2015 for the latest two years (for the latest three years including comparatives of the first year of adoption) out of last three completed years, then the financial information for all the three years shall be prepared as per Companies (Indian Accounting Standards) Rules, 2015.
- b) If the concerned entity is following or is required to follow Companies (Indian Accounting Standards) Rules, 2015 only for the latest year (for the latest two years including comparatives) out of the historical period of three years, then the financial information for the recent two years shall be disclosed as per the Companies (Indian Accounting Standards) Rules, 2015 and the financial information for the earliest year (i.e. the third last year) shall be disclosed as per the Companies (Accounting Standards) Rules, 2006.

*For example, if financial information of Investment Manager/Sponsor is presented for the financial years 2014-15, 2015-16, and 2016-17 and such Investment*

*Manager/Sponsor is required by Companies Act, 2013 to report under Ind AS from financial year 2016-17 (with financial year 2015-16 as comparatives), then it shall disclose financial information for financial years 2016-17 and 2015-16 as per Companies (Indian Accounting Standards) Rules, 2015 and financial year 2014-15 as per Companies (Accounting Standards) Rules, 2006.*

*Further, for example, if financial information of Investment Manager/Sponsor is presented for the financial years 2014-15, 2015-16, and 2016-17 and such Investment Manager/Sponsor is required by Companies Act, 2013 to report under Ind AS from financial year 2015-16 (with financial year 2014-15 as comparatives), then it shall disclose financial information for all the three financial years, i.e. 2014-15, 2015-16 and 2016-17, as per Companies (Indian Accounting Standards) Rules.*

3.17. Further, if any of the Investment Manager/Sponsor is a foreign entity and is not legally required to comply with the Companies Act, 2013, then the financial statements of such entity may be prepared in accordance with International Financial Reporting Standards (IFRS).

**(F) Framework for calculation of Net Distributable Cash Flows (NDCFs):**

3.18. Every InvIT/Investment Manager shall define net distributable cash flows (NDCFs) for itself and the definition as decided by InvIT/Investment manager shall be:

- a) subject to compliance with Companies Act, 2013 or Limited Liability Partnership Act, 2008, or any Central Government Act, as applicable; and
- b) disclosed in offer document and shall be followed consistently pursuant to listing.

3.19. The indicated framework shall be followed in so far as whatever is applicable to the SPV/InvIT, for e.g. the sale of infrastructure assets under SPV may not be possible under certain kind of concession agreements and therefore such head under distribution may be kept blank, etc.

3.20. InvIT may take guidance from the following framework for defining and calculating NDCFs at the SPV level and at the InvIT level:

**(I.) Calculation of Net Distributable Cash Flows at the SPV level:**

| <b>Description</b>  | <b>Amount</b> |
|---|---------------|
| <b>Profit after tax as per Statement of profit and loss/income and expenditure (standalone) (A)</b>   | xx            |
| Add: Depreciation and amortisation as per Statement of profit and loss/income and expenditure   | xx            |
| Add/less: Loss/gain on sale of Infrastructure Assets  | xx            |
| Add: Proceeds from sale of Infrastructure Assets adjusted for the following: <ul style="list-style-type: none"><li>• related debts settled or due to be settled from sale proceeds</li><li>• directly attributable transaction costs</li><li>• proceeds reinvested or planned to be reinvested as per para 18 (7) (a) of the InvIT Regulations</li></ul>  | xx            |
| Add: Proceeds from sale of Infrastructure Assets not distributed pursuant to an earlier plan to re-invest, if such proceeds are not intended to be invested subsequently  | xx            |
| Add/less: Any other item of non-cash expense / non cash income (net of actual cash flows for these items), if deemed necessary by the Investment Manager.<br>For example, any decrease/increase in carrying amount of an asset or of a liability recognised in Statement of profit and loss/income and expenditure on measurement of the asset or the liability at fair value, interest cost as per effective interest rate method, deferred tax, lease rents recognised on a straight line basis, etc. | xx            |
| Less: Repayment of external debt (principal) / redeemable preference shares / debentures, etc., if deemed necessary by the Investment Manager   | xx            |
| <b>Total Adjustments (B)</b>  | xx            |
| <b>Net Distributable Cash Flows (C)=(A+B)</b>   | xx            |

**(II.) Calculation of Net Distributable Cash Flows at the Consolidated InvIT level:**

| <b>Description</b>   | <b>Amount</b> |
|--|---------------|
| <b>Profit after tax as per Statement of profit and loss/income and expenditure (consolidated) (A)</b>  | xx            |
| Add: Depreciation and amortisation as per Statement of profit and loss/income and expenditure (consolidated)   | xx            |
| Add/less: Loss/gain recognised on sale of Infrastructure Assets or equity shares or interest in SPV  | xx            |
| Add: Proceeds from sale of Infrastructure Assets or equity shares or interest in SPV adjusted for the following: <ul style="list-style-type: none"><li>• related debts settled or due to be settled from sale proceeds</li><li>• directly attributable transaction costs</li></ul> | xx            |



| <b>Description</b>  | <b>Amount</b> |
|---|---------------|
| • proceeds reinvested or planned to be reinvested as per para 18 (7) (a) of the InvIT Regulations   |               |
| Add: Proceeds from sale of Infrastructure Assets or equity shares or interest in SPV not distributed pursuant to an earlier plan to re-invest, if such proceeds are not intended to be invested subsequently  | xx            |
| Add/less: Any other item of non-cash expense / non cash income (net of actual cash flows for these items), if deemed necessary by the Investment Manager.<br>For example, any decrease/increase in carrying amount of an asset or of a liability recognised in Statement of profit and loss/income and expenditure on measurement of the asset or the liability at fair value, interest cost as per effective interest rate method, deferred tax, lease rents recognised on a straight line basis, etc. | xx            |
| Less: Repayment of external debt (principal) / redeemable preference shares / debentures, etc., if deemed necessary by the Investment Manager   | xx            |
| <b>Total Adjustments (B)</b>  | xx            |
| <b>Net Distributable Cash Flows (C) = (A+B)</b>   | <b>xx</b>     |

**(G) Principles for preparation of combined financial statements:**

3.21. For preparation of Combined Financial Statements, as has been indicated in paragraph 3.2.1 b) under Section '(A)' above, InvIT shall follow the following principles:

3.21.1. Period for which combined financial statements shall be disclosed

When the InvIT has not been in existence for some portion or the entire portion of the reporting period of three years and interim period, if any, then the financial information must be provided through combined financial statements, showing the combined financial performance of all the proposed InvIT assets, for such period when InvIT was not in existence.

3.21.2. Assets/entities forming part of Combined Financial Statements:

All the assets or entities, which are proposed to be owned by the InvIT, as per the disclosures in the offer document / placement memorandum, shall collectively form part of combined financial statements.

3.21.3. Underlying assumption for preparation of Combined Financial Statements

Such combined financial statements shall be prepared based on an assumption that all the assets and/or entities, proposed to be owned by InvIT, were part of a single group for such period when InvIT was not in existence.

**3.21.4. Preparation of Combined Financial Statements:**

- i. These statements shall be prepared on a combined basis and presented as if InvIT assets were a part of a single group since the first day of the reporting period for which information is being presented.
- ii. The principles for preparation of combined financial statements shall be same as the principles laid down in “Ind AS 110 Consolidated Financial Statements”, to the extent applicable. However, unlike consolidated financial statements, the combined financial statements shall not have the parent.
- iii. While preparing Combined Financial Statements, transactions between the entities proposed to be owned by InvIT (i.e. transactions between the entities which are forming part of the combined financial statements) shall be eliminated.  
Further, all pertinent matters, such as non-controlling interests, foreign operations, different fiscal periods, or income taxes, etc. shall be treated in the same manner as in consolidated financial statements, to the extent applicable.
- iv. In cases where one or more of the underlying InvIT assets have been held by the sponsor or its associates or its group entities for a period lesser than the last three completed financial years, then such assets may be reflected in the Combined Financial Statements only from the date of holding by such entity.  
However, if the discrete financial information for such assets is also available for the pre-holding period (i.e. the period before the acquisition by the sponsor or its associates or its group entities),

then such assets shall be reflected in the Combined Financial Statements for such pre-holding period as well.

- v. If there are any assets for which the financial information is considered for a period lesser than three years and the additional interim period, if any, then such fact shall be clearly disclosed in the offer document/placement memorandum, along with all pertinent details.
- vi. Assumptions made in preparation of the Combined Financial Statements shall be disclosed in 'Basis of Preparation' of such statements.
- vii. The basis of preparation shall also explain the principles of combination and elimination of transactions amongst entities that are included in the Combined Financial Statements.

3.22. In addition to the principles listed at paragraph 3.21 above, the InvIT/Investment Manager, while preparing the Combined Financial Statements of the InvIT, shall also be guided by the requirements laid down in the 'Guidance Note on Combined and Carve-Out Financial Statements' and any other pertinent guidance/directions issued by ICAI in this context.

#### **(H) Minimum Disclosures for key financial statements:**

3.23. For the financial statements listed at Paragraph 3.3.3 of Section '(A)' above, the line items shall, at minimum, include the following:

##### **3.23.1. Line items for Balance Sheet:**

- a) Assets
  - i. Property, plant and equipment;
  - ii. Capital work-in-progress
  - iii. Investment property;
  - iv. Intangible assets;
  - v. Inventories;
  - vi. Other receivables;
  - vii. Other financial assets (excluding Inventories & Other Receivables)
  - viii. Cash and cash equivalents;

- ix. Deferred tax assets;
- x. Assets for current tax.

b) Equity and Liabilities

- i. Unit capital;
- ii. Other payables;
- iii. Provisions;
- iv. Financial liabilities (excluding amounts shown under (b) and (c)), separately disclosing liabilities owed to sponsors;
- v. Liabilities for current tax;
- vi. Deferred tax liabilities;
- vii. Other liabilities

3.23.2. Line items for Statement of Profit and loss/Income and Expenditure

a) Incomes and gains:

- i. Revenue from operations;
- ii. Dividend;
- iii. Interest;
- iv. Profit on sale of assets/investments
- v. Other income (*Clearly indicate nature of such income*)

b) Expenses and losses:

- i. Valuation expenses;
- ii. Audit fees;
- iii. Insurance & security expenses;
- iv. Employee Benefits Expenses
- v. Project management fees (including fees paid to project manager)
- vi. Investment management fees (including fees paid to investment manager)
- vii. Trustee Fee
- viii. Depreciation on property, plant and equipment;
- ix. Amortization of intangible assets;

- x. Finance Cost (Interest);
  - xi. Custodian fees;
  - xii. Registration fees;
  - xiii. Repairs and maintenance in case of infrastructure asset;
  - xiv. Loss on sale of assets/investments
  - xv. Other expenses (Clearly indicate nature of such expense)
- c) Profit or loss for the period before income tax
  - d) Tax expense (current tax and deferred tax)
  - e) Profit or loss for the period after income tax
  - f) Items of other comprehensive income
  - g) Additional line items (if applicable)
    - i. Items that will not be reclassified to profit or loss
    - ii. Income tax relating to items that will not be reclassified to profit or loss
    - iii. Items that will be reclassified to profit or loss
    - iv. Income tax relating to items that will be reclassified to profit or loss
  - h) Total comprehensive income for the period (e+f) (Comprising profit (loss) and Other comprehensive income for the period)

### 3.23.3. Line items for the "Statement of changes in Unit holders' equity"

- a) Total comprehensive income for the period;
- b) For each component of unit holders' equity, a reconciliation between the carrying amount at the beginning and the end of the period, separately (as a minimum) disclosing changes resulting from:
  - i. Profit or loss;
  - ii. Other comprehensive income;
  - iii. Aggregate amount of investments by unit holders in InvIT, and dividends / other distributions by InvIT to unit holders

### 3.23.4. Line items for the "Cash Flow Statement"

Cash Flow Statement, shall be prepared in accordance with the requirements of Ind AS 7-"Statement of Cash Flows".

**3.23.5. Line items for 'Statement of Net Assets at Fair Value'**

The line items for the Statement of Net Assets at Fair Value, shall, at minimum, include the following:

| <b>S.No.</b> | <b>Particulars</b> | <b>Book Value</b>                           | <b>Fair Value</b> |
|--------------|--------------------|---|-------------------|
| A.           | Assets             | xxxx  | xxxx              |
| B.           | Liabilities        | xxxx<br>(as reflected in the balance sheet) |                   |
| C.           | Net Assets (A-B)   | xxxx  | xxxx              |
| D.           | No. of Units       | xxxx  | xxxx              |
| E.           | NAV (C/D)          | xxxx  | xxxx              |

Notes:

(i) 'Statement of Net Assets at Fair Value' shall be provided only as on the last date of the financial information disclosed in the offer document/placement memorandum.

(ii) Further, the breakup of the fair values of the assets shall be given project-wise in the notes to the Statement of Net Assets at Fair Value.

**3.23.6. Line items for 'Statement of Total Return at Fair Value':**

The line items for the Statement of Total Return at Fair Value, shall, at minimum, include the following:

| <b>Particulars</b>   | <b>Amount</b> |
|--|---------------|
| Total Comprehensive Income (As per the Statement of Profit and loss/Income and Expenditure)  | xxxx          |
| Add/Less: Other Changes in Fair Value (e.g., in investment property, property, plant & equipment (if cost model is followed)) not recognized in Total Comprehensive Income | xxxx          |
| <b>Total Return</b>  | xxxx          |

Note: 'Statement of Total Returns at Fair Value' shall be provided only for the last completed year and interim period, if any.

3.24. Headings, line items, sub-line items and sub-totals may be presented as an addition or substitution on the face of the financial statements when such presentation is relevant to an understanding of an InvIT's financial position or performance or to cater to industry/sector-specific disclosure requirements or when required for compliance with the InvIT regulations or Indian Accounting Standards or any other law.

## **Chapter 4. Continuous Disclosures and Compliances by InvITs<sup>10</sup>**

### **Disclosure of Financial information to Stock Exchanges**

#### **(A) Financial Information of InvIT:**

While disclosing its financial information to the Stock Exchanges, an InvIT shall comply with the following:

#### **4.1. Frequency and Time period for disclosures:**

4.1.1. An InvIT shall submit its half yearly and annual financial information to the Stock Exchanges.

4.1.2. The financial information shall be submitted to the Stock Exchanges within the following time period:

- a. The financial information of the first half year period of the financial year, shall be submitted within 45 days from the end of the half year.
- b. The annual financial information shall be submitted within 60 days from the end of the financial year.
- c. The financial information of the second half year period of the financial year, shall be submitted along with the annual financial information.

The said information shall be submitted with a note stating that the figures of the second half year period are the balancing figures of the figures of the full financial year reduced by the figures of the first half year period.

#### **4.2. Nature of financial information**

4.2.1. The financial information shall be disclosed on both standalone as well as consolidated basis.

#### **4.3. Comparative information**

4.3.1. The annual financial information shall contain comparative information for the immediately preceding financial year.

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<sup>10</sup> Circular No. CIR/IMD/DF/127/2016 dated November 29, 2016



The half yearly financial information shall contain comparative information for the immediately preceding half year as well as for the corresponding half year in the immediately preceding financial year.

4.3.2. The comparative information would consist of corresponding amounts (comparative figures) for all the items shown in the key financial statements (as specified in Paragraph 4.5 below), including notes, and for the additional disclosures (as specified in Paragraph 4.6 below), to the extent applicable.

4.3.3. In cases where the InvIT was not in existence in the previous corresponding reporting period(s) mentioned at Paragraph 4.3.1 above, then the comparative information may not be provided and the said fact shall be clearly disclosed.

#### **4.4. Basis of preparation of financial information**

4.4.1. The financial information shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods.

4.4.2. The financial information shall be prepared in accordance with Indian Accounting Standards (Ind AS) and/or any addendum thereto as defined in Rule 2 (1) (a) of the Companies (Indian Accounting Standards) Rules, 2015.

Additionally, InvITs shall also follow relevant accounting laws, as prescribed by their sectoral regulators, with respect to the projects being executed by them.

For HoldCos / SPVs owned by InvIT, these entities may prepare financial statements in accordance with accounting standards and laws applicable to them. However, for consolidation purposes, consolidated financial information of InvIT in accordance with Ind AS should be disclosed.

4.4.3. In addition to the financial information in accordance with Ind AS as mentioned at Paragraph 4.4.2 above, the InvIT may, if it so desires, also submit the financial information as per the International Financial Reporting Standards.

#### **4.5. Key Financial Statements:**

4.5.1. The financial information presented by the InvIT can be in the form of condensed financial statements. Such financial information shall comply with the minimum

requirements for condensed financial statements as described in Ind AS 34 on 'Interim Financial Reporting', to the extent applicable.

4.5.2. The annual financial information shall include the following financial statements:

- a) Balance Sheet;
- b) Statement of Profit and Loss/Income and Expenditure;
- c) Statement of Changes in Unit holders' Equity;
- d) Statement of Cash Flows;
- e) Statement of Net Assets at Fair Value;
- f) Statement of Total Returns at Fair Value;
- g) Explanatory notes annexed to, or forming part of, any statements referred above

4.5.3. The half yearly financial information shall include the following financial statements

- a) Statement of Profit and Loss/Income and Expenditure;
- b) Explanatory notes annexed to, or forming part of, any statements referred above.

4.5.4. For the key financial statements listed above, the minimum information to be disclosed shall be as specified in Section H of Annexure-A to the SEBI Circular No. CIR/IMD/DF/114/2016 dated October 20, 2016 on 'Disclosure of financial information in offer document/placement memorandum'. (paragraphs 3.23 and 3.24 of Chapter 3 of the master circular)

4.5.5. Financial statements shall disclose all 'material' items, i.e., the items if they can, individually or collectively, influence the economic decisions made on the basis of the financial statements.

For determining materiality, the InvIT shall be guided by Paragraph 3.5 in Section A of Annexure-A to the SEBI Circular No. CIR/IMD/DF/114/2016 dated October 20, 2016 on 'Disclosure of financial information in offer document/placement memorandum'. (paragraph 3.3.5 of Chapter 3 of the master circular)

4.5.6. In cases of any sale/redemption of any holdings/investments in underlying SPV(s)/HoldCo(s) or any sale of infrastructure assets by the InvIT, the profit/loss on such transactions should be shown on a gross basis.

#### **4.6. Additional disclosures while submission of financial information**

In addition to the key financial statements referred in Paragraph 4.5 above, the following disclosures shall also be included as a part of both the half yearly as well as the annual financial information unless otherwise specified. Further, the below mentioned disclosures shall also be subjected to audit/limited review if applicable:

##### **4.6.1. Statement of Net Distributable Cash Flows (NDCFs):**

An InvIT shall disclose statements of NDCFs of the InvIT as well as of all the underlying HoldCos and SPVs. Such statements shall be prepared in accordance with, the definition of NDCFs and the framework for calculation of NDCFs, as defined by the InvIT/Investment Manager and as disclosed in the offer document.

##### **4.6.2. Investment Manager and Project Manager Fees:**

- a) Explanations and justification for the fees paid to the Investment Manager and the Project Manager, including details about methodology for computation of the fees.
- b) Whether there has been any material change (materiality to be judged and determined by trustees in light of various pertinent factors including but not restricted to the size of InvIT, amount of change, prevailing circumstances, etc.) in the fees paid to project manager and investment manager compared to the previous reporting period? If yes, detailed reasons and information thereof.

##### **4.6.3. Sub-sector investments:**

If the InvIT holds assets (whether directly or through its HoldCo(s)/SPV(s)) in more than one infrastructure sectors/sub-sectors, then it shall disclose a breakup of the investments across all sectors/sub-sectors clearly showing investments in each major sector/sub-sector (major sector/sub-sector would constitute not less than 5% of the total investment in the major classification) together with the percentage thereof in relation to the total investment.

For determining the infrastructure sectors/sub-sectors, the InvIT shall be guided by latest notifications and any other communications by Ministry of Finance.

##### **4.6.4. Changes in Accounting policies:**

In cases of changes in accounting policies, if any, InvIT shall make adequate disclosures required as per the applicable accounting laws (including Ind AS 8 issued by the ICAI).

#### 4.6.5. Disclosures related to Modified Opinion(s)

The below mentioned disclosures would be required only in case of annual financial information of the InvIT:

- a) If the auditor has expressed any modified opinion(s) in respect of the audited annual financial information of the InvIT, then the InvIT, while submitting such financial information to the Stock Exchange(s), shall file a “Statement on Impact of Audit Qualifications” disclosing such modified opinion(s) and the cumulative impact of the same in the format as specified in Annexure I to the SEBI Circular No. CIR/CFD/CMD/56/2016 dated May 27, 2016.

With respect to the format referred in the aforementioned Circular, the reference to “Earnings per Share’ and ‘Management’ should be construed as a reference to ‘Earnings per Unit’ and ‘Board of Directors/Governing Body of the Investment Manager’ respectively.

Further, the aforementioned statement on impact of audit qualifications shall be signed by the following:

- Chairperson/CEO/MD of the Investment Manager
- CFO or the Head of the Finance of the Investment Manager
- Statutory Auditor

- b) If the auditor had expressed any modified opinion(s) or other reservation(s) in his audit report or limited review report in respect of the financial results of the immediately preceding financial year or half year, which had an impact on the profit or loss of that period, then the InvIT shall disclose the following:

- Brief details of the past modified opinion modified opinion(s) or other reservation(s)
- Whether such modified opinion(s) or other reservation(s) have been resolved
  - o If yes, details thereof

olf no, the reasons thereof and the steps which the InvIT intends to take in the matter

#### 4.6.6. Other Statements:

- a) The InvIT shall also disclose the following statements:
  - Statement of Earnings per Unit:
  - Statement of Contingent liabilities:
  - Statement of Commitments:
  - Statement of Related party transactions
- b) The details and the basis of disclosures for the above statements shall be same as specified in Paragraph 4 in Section A of Annexure-A to the SEBI Circular No. CIR/IMD/DF/114/2016 dated October 20, 2016 on 'Disclosure of financial information in offer document/placement memorandum' (Paragraph 3.4 of Chapter 3 of the master circular)

#### 4.7. Approval and authentication of financial information:

Before submission of the financial information to the Stock Exchanges, the financial information shall be approved by the Board of Directors/Governing Body of the Investment Manager and shall be authenticated and signed in the following manner:

4.7.1. The financial information shall be signed by two designated personnel of the Investment Manager certifying that the financial information do not contain any false or misleading statement or figures and do not omit any material fact which makes the statements or the figures contained therein misleading.

4.7.2. Subsequent to the above, the financial information shall be signed by the Chairperson or the Managing director/partner or the Whole time director/partner on the Board of Directors/Governing Body of the Investment Manager and in the absence of all of them; it shall be signed by any other director/partner of the Investment Manager who is duly authorized by the Board of Directors/Governing Body to sign the financial information.

#### 4.8. Audit of Financial Information:

4.8.1. The annual financial information shall be audited, whereas the half yearly financial information may be either audited or unaudited. In case the InvIT opts to

submit unaudited financial information, the same shall be subject to limited review by the auditor of InvIT.

4.8.2. The audit/limited review shall be carried out by the auditor appointed for the InvIT as per the InvIT regulations.

The auditor, so appointed, shall be the one who has subjected itself to the peer review process of the Institute of Chartered Accountants of India ('ICAI') and who holds a valid certificate issued by the Peer Review Board of ICAI.

4.8.3. In case the financial information is audited, it shall comply with all the requirements specified in Paragraph 5 in Section A of Annexure-A to the SEBI Circular No. CIR/IMD/ DF/114/2016 dated October 20, 2016 on 'Disclosure of financial information in offer document/placement memorandum' (Paragraph 3.5 of Chapter 3 of the master circular), to the extent applicable, and the audit report shall contain disclosures stated therein.

In addition to the auditor's opinion on the matters specified in Paragraph 5.1 (e) in Section A of Annexure-A to the aforementioned SEBI Circular (Paragraph 3.5.1 e) of Chapter 3 of the master circular), the auditor shall also give his opinion on the following:

- a) whether the statement of NDCF's gives a true and fair view of NDCF's for the years/periods ended at the balance sheet dates

4.8.4. The financial information submitted to the Stock Exchanges shall be accompanied with Audit Report or Limited Review Report, as the case may be.

## **(B) Financial information of Investment Manager**

4.9. Along with the annual financial information of InvIT, an InvIT shall disclose summary of the audited consolidated financial statements (including the Balance Sheet and Statement of Profit and Loss (without schedules)) of Investment Manager for the latest financial year, along with comparative figures for the immediate preceding financial year, prepared in accordance with the accounting standards and laws, as applicable for the Investment Manager.

4.10. The above information may not be disclosed if the Investment Manager's Net worth is not materially eroded (Material erosion shall be judged by the Trustees in light of

various pertinent factors including but not restricted to size of InvIT, size of Investment Manager, amount of Net worth erosion, prevailing circumstances, etc.) when compared to its Net worth as per its last disclosed financial statements by the InvIT. If the financial information of Investment Manager is not disclosed because of the fact that there is no material erosion in the net worth as compared to the net worth as per the last disclosed financial statements, the said fact shall be clearly disclosed.

**(C) Obligation to maintain proper books of account and records, documents etc.**

4.11. Every InvIT shall maintain proper books of account, records and documents etc. relating to a period of not less than eight financial years immediately preceding a financial year, or where the InvIT had been in existence for a period of less than eight years, in respect of all the preceding years.

**Other Continuous Disclosures to Stock Exchanges and Other Compliances**

**4.12. Listing Agreement:**

4.12.1. InvIT shall enter into a simplified listing agreement, with all the Stock Exchanges where it proposes to list its units, in lines with the format as specified under the SEBI Circular No. CIR/CFD/CMD/6/2015 dated October 13, 2015 on 'Format of uniform Listing Agreement'.

4.12.2. However, with respect to the compliance with the listing conditions, InvIT shall follow the InvIT regulations and circulars issued therein.

**4.13. Disclosure of Unit holding pattern:**

4.13.1. An InvIT shall disclose its Unit holding pattern for each class of unit holders, as applicable, within the following time periods, as applicable:

- One day prior to listing of units on the stock exchanges;
- On quarterly basis, within 21 days from the end of each quarter; and
- Within 10 days of any capital restructuring of InvIT resulting in a change exceeding 2% of the total outstanding units of InvIT.

4.13.2. The Unit holding pattern shall be disclosed in the following format:

| Category   | Category of Unit holder  | No. of Units Held | As a % of Total Outstanding Units | No. of units mandatorily held <sup>11</sup> |                            | Number of units pledged or otherwise encumbered <sup>11</sup> |                            |
|------------|--|-------------------|-----------------------------------|---|----------------------------|---|----------------------------|
|            |  |                   |                                   | No. of units                                | As a % of total units held | No. of units  | As a % of total units held |
| <b>(A)</b> | <b>Sponsor(s) / Investment Manager / Project Manager(s) and their associates/related parties</b> |                   |                                   |   |                            |   |                            |
| <b>(1)</b> | <b>Indian</b>  |                   |                                   |   |                            |   |                            |
| (a)        | Individuals / HUF  |                   |                                   |   |                            |   |                            |
| (b)        | Central/State Govt.  |                   |                                   |   |                            |   |                            |
| (c)        | Financial Institutions/Banks   |                   |                                   |   |                            |   |                            |
| (d)        | Any Other (specify)  |                   |                                   |   |                            |   |                            |
|            | <b>Sub- Total (A) (1)</b>  |                   |                                   |   |                            |   |                            |
| <b>(2)</b> | <b>Foreign</b>   |                   |                                   |   |                            |   |                            |
| (a)        | Individuals (Non Resident Indians / Foreign Individuals)   |                   |                                   |   |                            |   |                            |
| (b)        | Foreign government   |                   |                                   |   |                            |   |                            |
| (c)        | Institutions   |                   |                                   |   |                            |   |                            |
| (d)        | Foreign Portfolio Investors  |                   |                                   |   |                            |   |                            |
| (e)        | Any Other (specify)  |                   |                                   |   |                            |   |                            |

<sup>11</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/43 dated March 23, 2020



| Category   | Category of Unit holder   | No. of Units Held | As a % of Total Outstanding Units | No. of units mandatorily held <sup>11</sup> |                            | Number of units pledged or otherwise encumbered <sup>11</sup> |                            |
|------------|---|-------------------|-----------------------------------|---|----------------------------|---|----------------------------|
|            |   |                   |                                   | No. of units                                | As a % of total units held | No. of units  | As a % of total units held |
|            | <b>Sub-Total (A) (2)</b>  |                   |                                   |   |                            |   |                            |
|            | <b>Total unit holding of Sponsor &amp; Sponsor Group (A) = (A)(1) +(A)(2)</b> |                   |                                   |   |                            |   |                            |
| <b>(B)</b> | <b>Public Holding</b>   |                   |                                   |   |                            |   |                            |
| <b>(1)</b> | <b>Institutions</b>   |                   |                                   |   |                            |   |                            |
| (a)        | Mutual Funds  |                   |                                   |   |                            |   |                            |
| (b)        | Financial Institutions/ Banks   |                   |                                   |   |                            |   |                            |
| (c)        | Central/State Govt.   |                   |                                   |   |                            |   |                            |
| (d)        | Venture Capital Funds   |                   |                                   |   |                            |   |                            |
| (e)        | Insurance Companies   |                   |                                   |   |                            |   |                            |
| (f)        | Provident/pension funds   |                   |                                   |   |                            |   |                            |
| (g)        | Foreign Portfolio Investors   |                   |                                   |   |                            |   |                            |
| (h)        | Foreign Venture Capital investors   |                   |                                   |   |                            |   |                            |
| (i)        | Any Other (specify)   |                   |                                   |   |                            |   |                            |

| Category   | Category of Unit holder                                      | No. of Units Held | As a % of Total Outstanding Units | No. of units mandatorily held <sup>11</sup> |                            | Number of units pledged or otherwise encumbered <sup>11</sup> |                            |
|------------|--|-------------------|-----------------------------------|---|----------------------------|---|----------------------------|
|            |  |                   |                                   | No. of units                                | As a % of total units held | No. of units  | As a % of total units held |
|            | <b>Sub- Total (B) (1)</b>                                    |                   |                                   |   |                            |   |                            |
| <b>(2)</b> | <b>Non-Institutions</b>                                      |                   |                                   |   |                            |   |                            |
| (a)        | Central Government /State Government s(s)/President of India |                   |                                   |   |                            |   |                            |
| (b)        | Individuals  |                   |                                   |   |                            |   |                            |
| (c)        | NBFCs registered with RBI                                    |                   |                                   |   |                            |   |                            |
| (d)        | Any Other (specify)  |                   |                                   |   |                            |   |                            |
|            | <b>Sub- Total (B) (2)</b>                                    |                   |                                   |   |                            |   |                            |
|            | <b>Total Public Unit holding (B) = (B)(1)+(B)(2)</b>         |                   |                                   |   |                            |   |                            |
|            | <b>Total Units Outstanding (C) = (A) + (B)</b>               |                   |                                   |   |                            |   |                            |

#### 4.14.Review of Credit Rating:

4.14.1.Every credit rating, wherever required to be obtained by an InvIT as per Regulation 20 (2) of the InvIT regulations, shall be reviewed once a year, by the registered credit rating agency.

4.14.2. The credit rating review shall be completed annually within 30 days from the end of the financial year. Further, immediately upon completion of the credit rating review exercise and upon the receipt of the credit rating report, an intimation along with all pertinent information should be made to the Stock Exchanges.

#### **4.15. Website of InvIT:**

4.15.1. An InvIT shall maintain a functional website wherein the contents of the said website should be updated up to last 2 days and the website which should contain all the relevant information about InvIT, inter-alia, including the following:

- Details of its business;
- Financial information including complete copy of the Annual Report including Balance Sheet, Profit and Loss Account, etc.;
- Contact information of the designated officials of the company who are responsible for assisting and handling investor grievances;
- Email ID for grievance redressal and other relevant details;
- Information, report, notices, call letters, circulars, proceedings, etc. concerning units;
- All information and reports including compliance reports filed by InvIT with respect to units; and
- All intimations and announcements made by InvIT to the stock exchanges
- Any other information which may be relevant for the investors

4.15.2. Further, the contents of the website should be updated within 2 days of any changes / developments which trigger a need for an update on the website.

#### **4.16. Grievance Redressal Mechanism:**

4.16.1. InvIT shall ensure that adequate steps are taken for expeditious redressal of investor complaints.

4.16.2. InvIT shall ensure that it is registered on the SCORES platform or such other electronic platform or system of the Board as shall be mandated from time to time, in order to handle investor complaints electronically in the manner specified by the Board.

4.16.3.[All complaints including SCORES complaints received by the InvIT shall be disclosed in the format mentioned in Annexure - 8 on the website of the InvIT and also filed with the recognized stock exchange(s), where its units are listed within 21 days from the end of financial year or end of quarter, as the case may be.]<sup>12</sup>

4.16.4.The Trustee and the Board of Directors/Governing Body of the Investment Manager, shall review the aforementioned statement, before submission of the same to the Stock Exchange(s), and shall ensure that all investor complaints are redressed by the Investment Manager in timely manner.

#### **4.17.Statement of deviation(s) or variation(s)**

4.17.1.The InvIT shall submit to the recognized stock exchange(s), where its units are listed, the following statement(s) on a quarterly basis for any private issue, public issue, rights issue, preferential issue, etc.:

- a) Statement indicating deviations, if any, in the use of proceeds from the objects stated in the offer document/placement memorandum or explanatory statement to the notice for the general meeting, as applicable;
- b) Statement indicating category wise variation between projected utilization of funds made by it in its offer document/placement memorandum or explanatory statement to the notice for the general meeting, as applicable and the actual utilization of funds.

4.17.2.The statement(s) specified above, shall be continued to be given till such time the issue proceeds have been fully utilised or the purpose for which these proceeds were raised has been achieved.

Such statement(s) shall also be placed before the Trustee and the Board of Directors/Governing Body of the Investment Manager for review. Pursuant to such review, the statement shall be submitted to the stock exchange(s). Such submission to the Stock Exchange(s) shall be made within twenty-one days from the end of each quarter

4.17.3.InvIT shall furnish an explanation for the aforementioned variation in its Annual report.

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<sup>12</sup> Circular No. SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/600 dated July 22, 2021

4.17.4. InvIT shall prepare an annual statement of funds utilized for purposes other than those stated in the offer document/placement memorandum or explanatory statement to the notice for the general meeting, certified by the statutory auditors of the InvIT, and place it before the before the Trustee and the Board of Directors/Governing Body of the Investment Manager till such time the money raised through the issue has been fully utilized.

**4.18. Additional disclosure requirements for InvITs which have issued and listed debt securities<sup>13</sup>**

4.18.1. InvITs which have issued debt securities shall be required to comply with following continuous disclosure requirements:

- a) Regulations 50, 51, 54, 55, 56, 57, 58, 59 and 60 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”) and any other provisions of the aforesaid regulations as may be applicable to InvITs.
- b) Additional line items that shall be disclosed by InvITs which have issued/listed their debt securities are as follows:
  - i. Asset cover available;
  - ii. debt-equity ratio;
  - iii. debt service coverage ratio;
  - iv. interest service coverage ratio;
  - v. net worth;
- c) Modified opinion(s) in audit reports having a bearing on the interest payment or redemption or principal repayment capacity of the InvITs shall be appropriately and adequately addressed by the board of the manager while publishing the accounts for the said period.
- d) InvITs shall submit to the stock exchange on a half yearly basis along with the half yearly financial results, a statement indicating material deviations, if any, in the use of proceeds of issue of debt securities from the objects stated in the offer document.

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<sup>13</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2018/71 dated April 13, 2018

4.18.2. With reference to ILDS Regulations and LODR Regulation and circulars issued thereunder, the reference to the following terms made therein, should, for the purpose of this paragraph 4.18, be construed as follows, unless otherwise required:

| <b>Reference to</b>                                   | <b>To be construed as</b>                          |
|---|--|
| Articles of Association/<br>Memorandum of Association | Trust Deed   |
| Board of directors                                    | Board of Director/Governing Body of the<br>Manager |
| Directors of the company                              | Directors of the manager                           |
| Shares  | Units  |
| Shareholder   | Unit holder  |
| Shareholding pattern                                  | Unit holding pattern                               |
| Share capital   | Unit capital                                       |

#### 4.19. Enhanced Financial disclosures for InvITs<sup>14</sup>

4.19.1. InvITs, which in terms of Regulation 20(3)(b) of the InvIT Regulations, have their aggregate consolidated borrowings and deferred payments above 49 percent, shall, disclose following additional line items:

- a) Asset cover available;
- b) debt-equity ratio;
- c) debt service coverage ratio;
- d) interest service coverage ratio;
- e) net worth;

<sup>14</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2019/59 dated April 23, 2019

## **Chapter 5. Participation by Strategic Investor(s) in InvITs<sup>15</sup>**

5.1. The operational modalities, for the participation by the strategic investors in InvITs shall be as under:

5.1.1. An InvIT, if chooses to invite subscriptions from the strategic investors shall undertake the same in the following manner:

- a) The strategic investor(s) shall, either jointly or severally, invest not less than 5% and not more than 25% of the total offer size.
- b) The investment manager on behalf of the InvIT, shall enter into a binding unit subscription agreement with the strategic investor(s), which propose(s) to invest in the public issue of InvIT.
- c) Subscription price per unit, payable by the strategic investor(s) shall be set out in the unit subscription agreement and the entire subscription price shall be deposited in a special escrow account prior to opening of the public issue.
- d) The price at which the strategic investor(s) has/have agreed to buy units of the InvIT shall not be less than the issue price determined in the public issue. Thus, if the price determined in the public issue is higher than the price at which the allocation is to be made to strategic investor(s), the strategic investor(s) shall bring in the additional amount within two working days of the determination of price in the public issue. However, if the price determined in the public issue is lower than the price at which the allocation is to be made to strategic investor, the excess amount shall not be refunded to the strategic investor and the strategic investor shall take allotment at the price at which allocation was agreed to be made to it in unit subscription agreement.
- e) The draft offer document or offer document, as applicable, shall disclose details of the unit subscription agreement. Such details shall include name of each strategic investor, the number of units proposed to be subscribed by it or the investment amount, proposed subscription price per unit, etc.
- f) The unit subscription agreement shall not be terminated except in the event the issue fails to collect minimum subscription.

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<sup>15</sup> Circular No. SEBI/HO/DDHS/CIR/P/2018/10 dated January 18, 2018

5.1.2. The units subscribed by strategic investors, pursuant to the unit subscription agreement, will be locked-in for a period of 180 days from the date of listing in the public issue.



## **Chapter 6. Guidelines for issuance of debt securities by InvITs<sup>16</sup>**

6.1. For issuance of debt securities, InvITs shall follow provisions of SEBI (Issue and Listing of Debt Securities Regulations), 2008 (“ILDS Regulations”) in the following manner:

6.1.1. Regulation 4 (5) and Regulation 16 (1) of ILDS Regulations, 2008 shall not be applicable for issuance of debt securities by InvITs.

6.1.2. The compliances required to be made with respect to Companies Act, 2013 or any filing to be made to Registrar of Companies in terms of the ILDS Regulations, shall not apply to InvITs for issuance of debt securities unless specifically provided in this chapter.

6.1.3. All other provisions of ILDS Regulations shall apply to InvITs subject to there being no conflict with InvIT Regulations or circulars issued thereunder. In case of conflict, provisions of InvIT Regulations or circulars issued thereunder shall prevail over ILDS Regulations.

6.2. For the issuance of debt securities InvITs shall appoint one or more debenture trustee registered with SEBI under Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993.

Provided that a trustee to the InvIT shall not be eligible to be appointed as debenture trustee to such issue of debt securities.

6.3. Any secured debt securities issued by InvITs shall be secured by the creation of a charge on the assets of the InvIT or holdco or SPV, having a value which is sufficient for the repayment of the amount of such debt securities and interest thereon.

6.4. With reference to ILDS Regulations and LODR Regulation and circulars issued thereunder, the reference to the following terms made therein, should, for the purpose of this chapter, be construed as follows, unless otherwise required:

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<sup>16</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2018/71 dated April 13, 2018

| <b>Reference to</b>                                   | <b>To be construed as</b>                                     |
|---|---|
| Articles of Association/<br>Memorandum of Association | Trust Deed  |
| Board of directors                                    | Board of Director/Governing Body of the<br>Investment Manager |
| Directors of the company                              | Directors of the manager                                      |
| Shares  | Units   |
| Shareholder   | Unit holder   |
| Shareholding pattern                                  | Unit holding pattern  |
| Share capital   | Unit capital  |

## **Chapter 7. Guidelines for preferential issue and institutional placement of units by listed InvITs<sup>17</sup>**

### **Definitions**

7.1. “Institutional Placement” shall mean a preferential issue of units by a listed InvIT only to Institutional Investors, as defined under InvIT Regulations.

### **Conditions for issuance**

7.2. A listed InvIT may make a preferential issue of units or institutional placement of units under these guidelines, if it satisfies the following conditions:

7.2.1. A resolution of the existing unitholders approving the issue of units, in accordance with Regulation 22(5) of the InvIT Regulations has been passed.

7.2.2. Units of the same class, which are proposed to be allotted have been listed on a stock exchange for a period of at least six months prior to the date of issuance of notice to its unit holders for convening the meeting to pass the resolution in terms of clause 7.2.1 above:

Provided in case of issuance of units through “institutional placement” the minimum listing period required shall be 12 months.

7.2.3. The InvIT has obtained in principle approval of the stock exchange(s) for listing of the units proposed to be issued under these guidelines.

7.2.4. The InvIT is in compliance with all the conditions for continuous listing and disclosure obligations under the InvIT Regulations and circulars issued thereunder.

7.2.5. None of the respective promoters or partners or directors of the sponsor(s) or investment manager or trustee of the InvIT is a fugitive economic offender declared under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018).

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<sup>17</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2019/143 dated November 27, 2019

7.2.6. [The InvIT shall not make any subsequent institutional placement until the expiry of two weeks from the date of the prior institutional placement made pursuant to one or more special resolutions.]<sup>18</sup>

### **Manner of issuance of units**

7.3. Any issuance of units under these guidelines shall be done in the following manner:

7.3.1. The units shall be allotted in the dematerialized form only and shall be listed on the stock exchange(s) where the units of the InvIT are listed.

7.3.2. Any offer or allotment through private placement shall not be made to more than 200 investors (excluding institutional investors) in a financial year.

7.3.3. Other than to the extent of the issue of units that is proposed to be made for consideration other than cash, full consideration for the units issued shall be paid by the prospective allottees prior to the allotment of the units, through banking channels. All such monies shall be kept by the Trustee in a separate bank account in the name of the InvIT and shall only be utilized for adjustment against allotment of units or refund of money to the applicants till the time such units are listed.

7.3.4. The minimum allotment and trading lot for units issued shall be equivalent to the minimum allotment and trading lot as applicable to the units of the same class, under the extant provisions of the InvIT Regulations or circulars issued thereunder.

7.3.5. Post allotment, the InvIT shall make an application for listing of the units to the stock exchange(s) and the units shall be listed within seven working days from the date of allotment:

Provided that where the InvIT fails to list the units within the specified time, the monies received shall be refunded through verifiable means within twenty days from the date of the allotment, and if any such money is not repaid within such time after the issuer becomes liable to repay it, the InvIT and the investment manager and its director or partner who is an officer in default shall, on and

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<sup>18</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/183 dated September 28, 2020

from the expiry of the twentieth day, be jointly and severally liable to repay that money with interest at the rate of fifteen percent per annum.

7.3.6. The InvIT shall file an allotment report with SEBI within seven days of allotment of the units, providing details of the allottees and allotment made. Placement document, if applicable, shall also be filed with the Board along with the allotment report.

7.3.7. The issue of units shall comply with the conditions and manner of allotment for preferential issue and institutional placement as provided in paragraphs 7.4 to 7.11 below.

### **Manner of preferential issue of units by a listed InvIT**

#### **7.4. Unit holders' approval**

7.4.1. The issuer shall, in an explanatory statement to the notice for the general meeting proposed for passing the resolution in terms of para 7.2.1 above, make appropriate disclosures including the following:

- a) Objects of the preferential issue;
- b) NAV of the InvIT;
- c) Maximum number of units to be issued;
- d) Intent of the parties to the InvIT, their directors or key managerial personnel to subscribe to the issue;
- e) Unitholding pattern of the InvIT before and after the preferential issue;
- f) Time frame within which the preferential issue shall be completed;
- g) Identity of the natural persons who are the ultimate beneficial owners of the units proposed to be allotted and/or who ultimately control the proposed allottees:

Provided that if there is any listed company, mutual fund, scheduled commercial bank, insurance company registered with the Insurance Regulatory and Development Authority of India in the chain of ownership of the proposed allottee, no further disclosure will be necessary.

Explanation: For the purpose of identification of the ultimate beneficial owners of the allottees, where the allottees are institutions/entities, the identification of such ultimate beneficial owners, shall be in accordance with the guidelines prescribed by the Board, if any.

## **7.5. Pricing of Units**

### **A. Pricing of frequently traded units**

7.5.1. Where the units of the InvIT are frequently traded, the price of units to be allotted pursuant to the preferential issue shall not be less than higher of the following:

- i. the average of the weekly high and low of the volume weighted average price of the related units quoted on the relevant stock exchange during the twenty-six weeks preceding the relevant date; or
- ii. the average of the weekly high and low of the volume weighted average prices of the related units quoted on the relevant stock exchange during the two weeks preceding the relevant date.

[Provided that, for any preferential issue made between September 28, 2020 and December 31, 2020, the InvIT may opt for a pricing method where the price of the units to be allotted pursuant to the preferential issue shall not be less than the higher of the following:

- (a) the average of the weekly high and low of the volume weighted average price of the related units quoted on the recognised stock exchange during the twelve weeks preceding the relevant date; or
- (b) the average of the weekly high and low of the volume weighted average prices of the related units quoted on a recognised stock exchange during the two weeks preceding the relevant date.

Provided further that, units allotted on a preferential basis using the pricing method set out in the first proviso shall be locked-in for a period of three years:

Provided further that, all allotments arising out of the same unitholders approval shall follow the same pricing method.]<sup>19</sup>

7.5.2.A preferential issue of units to institutional investors, not exceeding five in number, shall be made at a price not less than the average of the weekly high and low of the volume weighted average prices of the related units quoted on a recognised stock exchange during the two weeks preceding the relevant date.

Explanation:

- a) “Relevant date” for the purpose of clauses related to preferential issue of units shall be the date thirty days prior to the date on which the meeting of unitholders is held to consider the preferential issue. Where the relevant date falls on a weekend or a holiday, the day preceding the weekend or the holiday will be reckoned to be the relevant date.
- b) “Relevant stock exchange” shall mean the recognised stock exchange in which the units of the InvIT are listed, and in which the highest trading volume in respect of the units of the InvIT has been recorded during the preceding twenty-six weeks prior to the relevant date.
- c) “Frequently traded units” for the purpose of this chapter shall mean the units of the InvIT, in which the traded turnover on any recognised stock exchange during the twelve calendar months preceding the relevant date, is at least ten percent of the total number of issued and outstanding units of such class of units of the InvIT:

Provided that where the number of issued and outstanding units of a particular class of units of the InvIT is not identical throughout such period, the weighted average number of total units of such class of the issuer shall represent the total number of units.

## **B. Pricing of infrequently traded units**

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<sup>19</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/183 dated September 28, 2020

7.5.3. Where the units of an InvIT are not frequently traded, the price determined by the InvIT shall take into account the NAV of the InvIT based on a full valuation of all existing InvIT assets conducted in terms of InvIT Regulations.

## **7.6. Lock-in**

7.6.1. [The units allotted to sponsor(s) and its associates shall be locked-in for a period of three years from the date of trading approval granted for the units: Provided that units not more than twenty-five percent of the total unit capital of the InvIT shall be locked-in for three years from the date of trading approval: Provided further that units allotted in excess of twenty-five percent of the total unit capital of the InvIT shall be locked-in for one year from the date of trading approval.]<sup>20</sup>

[Explanation: For the computation of the lock-in requirement, the units held by the sponsor(s) and locked-in for three years, in the past in terms of Regulation 12 (3) of the InvIT Regulations shall be taken into account. The units locked-in pursuant to Regulation 12(3) of the InvIT Regulations shall not be put under fresh lock-in again, even though they are considered for computing the lock-in requirement, in case the said units are free of lock-in at the time of the preferential issue.]<sup>21</sup>

7.6.2. The units allotted to persons other than the sponsor(s) shall be locked-in for a period of one year from the date of trading approval for such units.

7.6.3. The entire pre-preferential issue unitholding of the allottees, if any, shall be locked-in from the relevant date up to a period of six months from the date of trading approval.

## **7.7. Allotment**

7.7.1. [Preferential issue of units shall not be made to any person who has sold or transferred any units of the issuer during the six months preceding the relevant date.

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<sup>20</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/36 dated March 13, 2020

<sup>21</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/183 dated September 28, 2020



Explanation: Where any person belonging to sponsor(s) has sold/transferred their units of the issuer during the six months preceding the relevant date, the sponsor(s) shall be ineligible for allotment of units on preferential basis.]<sup>22</sup>

7.7.2. Allotment pursuant to the unit holders' resolution shall be completed within a period of fifteen days from the date of passing of such resolution:

Provided that in case the approval of any regulatory, governmental or statutory body / agency is required, then in such cases the period of fifteen days will commence from the date of approval from such regulatory, governmental or statutory body/agency:

Provided further that where the InvIT fails to allot the units within the specified time, the monies received shall be refunded through verifiable means within twenty days from the date of the resolution, and if any such money is not repaid within such time after the issuer becomes liable to repay it, the InvIT and the investment manager and its director or partner who is an officer in default shall, on and from the expiry of the twentieth day, be jointly and severally liable to repay that money with interest at the rate of fifteen percent per annum.

## **Manner of institutional placement of units by a listed InvIT**

### **7.8. Placement document**

7.8.1. The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue.

7.8.2. The lead manager(s) shall, while seeking in-principle listing approval for the units, furnish to each stock exchange on which the same class of units of the issuer are listed, a due diligence certificate stating that the units are being issued under institutional placement and that the issuer complies with requirements of these guidelines, and also furnish a copy of the preliminary placement document along with any other document required by the stock exchange.

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<sup>22</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/232 dated November 17, 2020

7.8.3. The lead manager(s) shall exercise due diligence and shall satisfy themselves with all aspects of the Issue including the veracity and adequacy of disclosures in the offer document.

7.8.4. The institutional placement shall be made on the basis of a placement document which shall contain all material information, including disclosures as specified in Annexure - 7.

7.8.5. The preliminary placement document and the placement document shall be serially numbered and copies of the same shall be circulated only to select investors.

7.8.6. The preliminary placement document and the placement document shall be placed on the websites of the relevant stock exchange(s) and of the issuer with a disclaimer to the effect that it is in connection with an institutional placement and that no offer is being made to the public or to any other category of investors.

## **7.9. Pricing of Units**

### **A. Pricing of frequently traded units**

7.9.1. Where the units of the InvIT are frequently traded, the institutional placement shall be made at a price not less than the average of the weekly high and low of the closing prices of the units of the same class quoted on the stock exchange during the two weeks preceding the relevant date:

Provided that the InvIT may offer a discount of not more than five percent on the price so calculated, subject to approval of unitholders through a resolution as specified in para 7.2.1.

Explanation: "relevant date" for the purpose of clauses related to institutional placement shall be the date of the meeting in which the board of directors of the investment manager decides to open the proposed issue.

### **B. Pricing of infrequently traded units**

7.9.2. Where the units of the InvIT are not frequently traded, the price determined by the InvIT shall take into account the NAV of the InvIT based on a full valuation of all existing InvIT assets conducted in terms of InvIT Regulations.

#### **7.10. Transferability**

7.10.1. The units allotted through the institutional placement shall not be sold by the allottee for a period of one year from the date of allotment, except on a recognised stock exchange.

#### **7.11. Allotment**

7.11.1. Allotment pursuant to the unit holders' resolution shall be completed within a period of 365 days from the date of passing of such resolution:

Provided that where the InvIT fails to allot the units within the specified time, the monies received shall be refunded through verifiable means within twenty days from the date of the closure of the issue, and if any such money is not repaid within such time after the issuer becomes liable to repay it, the InvIT and the investment manager and its director or partner who is an officer in default shall, on and from the expiry of the twentieth day, be jointly and severally liable to repay that money with interest at the rate of fifteen percent per annum.

7.11.2. No allotment shall be made, either directly or indirectly, to any institutional investor who is a sponsor(s) or investment manager, or is a person related to, or related party or associate of, the sponsor(s) or the investment manager.

**Chapter 8. Guidelines for filing of placement memorandum by InvITs proposed to be listed<sup>23</sup>**

8.1. InvITs, wherein units are issued by way of private placement and which are proposed to be listed, shall file a draft placement memorandum with the Board and stock exchange(s) through a merchant banker registered with the Board not less than thirty days prior to opening of the issue.

8.2. The draft placement memorandum shall contain disclosures as specified in Schedule III of InvIT Regulations and the merchant banker shall submit a due diligence certificate as per Form A (to the extent applicable) of Annexure I of SEBI Circular no. CIR/IMD/DF/55/2016 dated May 11, 2016 (Annexure - 1 of the master circular) along with the draft placement memorandum.

8.3. The Board may issue observations, if any, on the draft placement memorandum within fifteen working days from the later of the following dates:

- i. the date of receipt of the draft placement memorandum by the Board; or
- ii. the date of receipt of satisfactory reply from the issuer and/or merchant banker to the issue, where the Board has sought any clarification or additional information from them; or
- iii. the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
- iv. the date of receipt of a copy of in-principle approval letter issued by the stock exchange(s).

8.4. The merchant banker to the issue, shall ensure that all comments are suitably incorporated in the draft placement memorandum prior to filing of the placement memorandum in terms of Regulation 14(2)(e) of InvIT Regulations and shall

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<sup>23</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2019/161 dated December 24, 2019

provide the due diligence certificate as per Form B of Annexure I of SEBI Circular no. CIR/IMD/DF/55/2016 dated May 11, 2016 (Annexure - 1 of the master circular).

## **Chapter 9. Guidelines for rights issue of units by a listed InvIT<sup>24</sup>**

### **9.1. Conditions for issuance**

9.1.1. No InvIT shall make a rights issue of units unless the following conditions are satisfied:

- a) A resolution of the board of directors of the investment manager approving the rights issue of units and determining the record date has been passed.
- b) Units of the same class, which are proposed to be allotted are already listed on a stock exchange.
- c) The InvIT has obtained in-principle approval of the stock exchange(s) for listing of units proposed to be issued under these guidelines.
- d) The InvIT is in compliance with the continuous listing and disclosure obligations under the InvIT Regulations and circulars issued thereunder. Provided that imposition of only monetary fines by stock exchanges on the InvIT shall not be a ground for ineligibility for undertaking issuances under these guidelines.
- e) None of the respective promoters or partners or directors of the sponsor(s) or investment manager or trustee of the InvIT is a fugitive economic offender declared under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018).
- f) None of the respective promoters or partners or directors of the sponsor(s) or investment manager or trustee of the InvIT
  - i. is debarred from accessing the securities market by the Board;
  - ii. is a promoter, director or person in control of any other company or a sponsor, investment manager or trustee of any other InvIT which is debarred from accessing the capital market under any order or directions made by the Board;

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<sup>24</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/10 dated January 17, 2020

## **9.2. Appointment of merchant banker(s) and other intermediaries**

- 9.2.1. The investment manager on behalf of the InvIT, in line with Regulation 10(5) of InvIT Regulations, shall appoint one or more merchant bankers, at least one of whom shall be a lead merchant banker and shall also appoint other intermediaries, in consultation with the merchant banker(s), to carry out the obligations relating to the issue.
- 9.2.2. If the InvIT desires to have the issue underwritten, it shall appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.
- 9.2.3. In case of an underwritten issue, the merchant banker(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.
- 9.2.4. The merchant banker(s) shall exercise due diligence and shall satisfy themselves with all aspects of the issue including the veracity and adequacy of disclosures in the letter of offer.

## **9.3. Draft Letter of Offer and Letter of Offer**

- 9.3.1. The investment manager, on behalf of the InvIT shall file a draft letter of offer with the Board through the lead merchant banker along with filing fees as specified in Schedule II of InvIT Regulations.
- 9.3.2. The lead merchant banker shall submit the following to the Board along with the draft letter of offer:
  - a) a certificate, confirming that an agreement has been entered into between the investment manager on behalf of the InvIT and the merchant bankers;
  - b) a due diligence certificate along the lines of Form A of Annexure I of SEBI Circular CIR/IMD/DF/55/2016 dated May 11, 2016 (Annexure - 1 of the master circular).
- 9.3.3. The investment manager, on behalf of the InvIT shall also file the draft letter of offer with the stock exchange(s) where the units of the InvIT are listed and

further make it public by posting the same on the website of the stock exchange(s) for seeking public comments for a period of seven working days from the date of filing the draft letter of offer.

- 9.3.4. The draft letter of offer shall also be displayed on the website of the InvIT and the merchant bankers.
- 9.3.5. The investment manager shall, after filing the draft letter of offer and letter of offer with the Board, make appropriate advertisement on the website of the sponsor, investment manager and stock exchanges.
- 9.3.6. The investment manager may also issue such advertisement in any newspaper and on the website of the InvIT.
- 9.3.7. The Board may specify changes or issue observations, if any, on the draft letter of offer within fifteen days from the later of the following dates:
  - a) the date of receipt of the draft letter of offer, filed under sub-clause 9.3.1; or
  - b) the date of receipt of satisfactory reply from the lead merchant banker(s), where the Board has sought any clarification or additional information from them; or
  - c) the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
  - d) the date of receipt of a copy of in-principle approval letter issued by the stock exchanges.
- 9.3.8. If the Board specifies any changes or issues observations on the draft letter of offer, the investment manager on behalf of the InvIT and lead merchant banker(s) shall carry out such changes in the draft letter of offer and shall submit to the Board an updated draft letter of offer complying with the observations issued by the Board and highlighting all changes made in the draft letter of offer before filing the letter of offer with the stock exchanges.
- 9.3.9. The lead merchant banker shall, along with filing of the letter of offer with the Board and the stock exchange(s), furnish to the Board, a due diligence certificate along the lines of Form B of Annexure I of SEBI Circular



CIR/IMD/DF/55/2016 dated May 11, 2016 (Annexure - 1 of the master circular).

9.3.10. The draft letter of offer and letter of offer shall contain disclosures as specified in Annexure - 6.

9.3.11. The investment manager, on behalf of the InvIT, and the merchant banker(s) shall ensure that the letters of offer are hosted on the websites of the InvIT, merchant bankers and the stock exchanges where the units are listed and their content is the same as the versions filed with the Board and the stock exchange(s), as applicable.

9.3.12. The draft letter of offer and letter of offer, as applicable, shall also be furnished to the Board in soft copy.

#### **9.4. Application**

9.4.1. The application form for the issue shall be prepared by the merchant banker(s) and the merchant banker(s) shall make arrangements for distribution of the application form.

#### **9.5. Pricing of Units**

9.5.1. The investment manager on behalf of the InvIT, in consultation with the lead merchant banker(s), shall decide the issue price before determining the record date.

9.5.2. The issue price shall be disclosed in the letter of offer filed with the Board and the stock exchange(s).

#### **9.6. Timelines**

9.6.1. The investment manager, on behalf of the InvIT, shall announce the record date to stock exchange(s) at least three working days (excluding the date of intimation and the record date) prior to the record date. The InvIT shall not withdraw its rights issue after announcement of the record date.

Provided that in case the InvIT withdraws the rights issue after announcing the record date, it shall not be eligible to make an application for listing of

any of its units on any stock exchange for a period of twelve months from the record date.

9.6.2. The rights issue shall open within three months from the record date.

9.6.3. The rights issue shall be kept open for at least three working days but not more than fifteen working days.

## **9.7. Manner of issuance of units**

9.7.1. Any issuance of units under these guidelines shall be done in the following manner:

- a) The rights entitlements shall be credited to the demat account of the unitholders before the date of opening of the issue. The rights entitlements shall include a right exercisable by the person concerned to renounce the units offered to him/her or any of them in favour of any other person and the draft letter of offer, letter of offer and the notice sent to the unitholders shall contain a statement to this effect.
- b) The units shall be allotted in the dematerialized form only and shall be listed on the stock exchange(s) where the units of the InvIT are listed.
- c) All investors would be required to mandatorily use Application Supported by Blocked Amount (ASBA) as a payment mode, whether existing unitholders or renounees and follow the procedure for rights issues of securities specified by the Board.

## **9.8. Subscription, Allotment and Listing of Units**

9.8.1. Minimum Subscription

- a) The minimum subscription to be received in the rights issue shall be 90% of the issue size through the letter of offer.
- b) If the minimum subscription as specified under (a) above is not received, the application monies shall be refunded to the applicants forthwith, but not later than 15 days from the issue closing date.

9.8.2. The sponsor(s), and their associates who are unitholders as on the record date, may choose to subscribe to additional units subject to disclosure of such intent in the draft letter of offer and letter of offer.

Provided that such additional subscription over and above the entitlement shall be subject to compliance with the minimum public unitholding requirements.

9.8.3. The minimum allotment and trading lot for units issued shall be equivalent to the minimum allotment and trading lot as applicable to the units of the same class, under the extant provisions of the InvIT Regulations or circulars issued thereunder.

9.8.4. The InvIT shall not make any allotment in excess of the units offered through the letter of offer except in case of oversubscription for the purpose of rounding off to even lots to make allotment, in consultation with the designated stock exchange.

Provided that in case of oversubscription, an allotment of not more than one per cent. of the issue size may be made for the purpose of making allotment in minimum even lots.

9.8.5. Allotment shall be made in the following manner:

- a) Full allotment to those eligible unitholders who have applied for their rights entitlement either in full or in part and also to the renounee(s), who has/have applied for the units renounced in their favour, in full or in part, as adjusted for fractional entitlement.
- b) Allotment to eligible unitholders who having applied for the units in full to the extent of their rights entitlement and have also applied for additional units shall be made as far as possible on an equitable basis, having due regard to the number of units held by them on the record date, provided there is an undersubscribed portion after making allotment in (a) above.
- c) Allotment to the renounees, who having applied for the units renounced in their favour and also applied for additional units, provided there is an undersubscribed portion after making full allotment specified in (a) and

(b) above. The allotment of such additional units may be made on a proportionate basis.

- d) Allotment to sponsor(s) and their associates, who are unitholders on the record date and who have disclosed their intent to subscribe to additional units in terms of 9.8.2 above, if there is an unsubscribed portion after making full allotment as per clause (a), (b) and (c) above.
- e) Allotment to the underwriter appointed for the issue, if any, at the discretion of the board of directors of the investment manager, subject to disclosure in the draft letter of offer and / or letter of offer as applicable.

9.8.6. The units allotted in the manner specified above shall be listed within six working days from the issue closing date.

#### **9.9. Restriction on further capital issues**

9.9.1. The InvIT shall not make any further issue of units in any manner whether by way of public issue, rights issue, preferential issue, qualified institutions placement, institutional placement, issue of bonus shares or otherwise during the period between the date of filing the draft letter of offer with the Board and the listing of the units offered through the letter of offer or refund of application monies.

9.10. The InvIT shall file an allotment report with the Board providing details of the allottees and allotment made within 15 days of the issue closing date.

#### **Fast Track Rights Issue**

9.11. [An InvIT satisfying the conditions mentioned below and desirous of issuing units under fast track rights issue shall, for such an issue, follow guidelines specified in this master circular except those under paragraphs 9.3.1, 9.3.2, 9.3.7, and 9.3.8 above:

- 9.11.1. the units of the InvIT have been listed on any stock exchange for a period of at least three years immediately preceding the record date;
- 9.11.2. all the units of the InvIT are held in demat form on the record date;

- 9.11.3. the average market capitalisation of public unitholding of the InvIT is at least two hundred and fifty crore rupees;
- 9.11.4. the InvIT is in compliance with the listing and disclosure requirements of the InvIT Regulations;
- 9.11.5. the InvIT has redressed at least ninety-five per cent. of the complaints received from the investors till the end of the quarter immediately preceding the month of the record date;
- 9.11.6. no show-cause notices have been issued or prosecution proceedings have been initiated by the Board and pending against the InvIT, parties to the InvIT or their respective promoters or partners or directors as on the record date;
- 9.11.7. the InvIT, parties to the InvIT or their respective promoters or partners or directors has not settled any alleged violation of securities laws through the consent or settlement mechanism with the Board during three years immediately preceding the record date;
- 9.11.8. units of the InvIT have not been suspended from trading as a disciplinary measure during last three years immediately preceding the record date;
- 9.11.9. no regulatory action has been imposed on the InvIT in the three years preceding the year in which rights issue is proposed;  
Provided that imposition of only monetary fines by stock exchanges on the InvIT shall not be a ground for ineligibility for undertaking issuances under this clause.
- 9.11.10. there shall be no conflict of interest between the lead merchant banker(s) and the InvIT or its associates in accordance with the applicable regulations;
- 9.11.11. The sponsor(s) shall mandatorily subscribe to their rights entitlement and shall not renounce their rights, except for the purpose of complying with minimum public shareholding norms prescribed under the InvIT Regulations, 2014;

9.11.12. there are no audit qualifications on the audited accounts of the InvIT in respect of those financial years for which such accounts are disclosed in the letter of offer;

**Explanation:** For the purpose of this chapter, “audit qualifications” shall be those disclosed under applicable accounting standard relating to modification to the opinion in the independent auditor’s report and requires a qualified opinion, adverse opinion or disclaimer of opinion for material misstatements.

9.12. The InvIT shall file the letter of offer with the Board in accordance with paragraph 9.3.9 and shall pay fees to the Board as specified in Schedule II of InvIT Regulations.]<sup>25</sup>

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<sup>25</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/36 dated March 13, 2020

## **Chapter 10. Guidelines for rights issue of units by an unlisted InvIT<sup>26</sup>**

10.1. For the purpose of this chapter “rights issue” shall mean an offer of units by an unlisted InvIT to the unit holders of the InvIT as on the record date fixed for the said purpose. The guidelines in respect of a rights issue of units by an unlisted InvIT are given below.

### **10.2. Conditions for issuance**

10.2.1. No InvIT shall make a rights issue of units unless the following conditions are satisfied:

- a) A resolution of the board of directors of the investment manager approving the rights issue of units and determining the record date has been passed.
- b) Units of the same class, which are proposed to be allotted are already issued by the InvIT.
- c) None of the respective promoters or partners or directors of the sponsor(s) or investment manager or trustee of the InvIT is a fugitive economic offender declared under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018).
- d) None of the respective promoters or partners or directors of the sponsor(s) or investment manager or trustee of the InvIT
  - i. is debarred from accessing the securities market by the Board;
  - ii. is a promoter, director or person in control of any other company or a sponsor, investment manager or trustee of any other InvIT which is debarred from accessing the capital market under any order or directions made by the Board;

### **10.3. Underwriting**

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<sup>26</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/223 dated November 04, 2020

10.3.1. If the InvIT desires to have the issue underwritten, it may appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.

#### **10.4. Letter of Offer**

10.4.1. The investment manager, on behalf of the InvIT shall file a letter of offer with the Board at least 5 days prior to opening of the issue

10.4.2. The investment manager, on behalf of the InvIT, shall carry out the obligations relating to the issue.

10.4.3. The investment manager shall ensure that disclosures made in the letter of offer contains material, true, correct and adequate disclosures and are in accordance with the InvIT Regulations and guidelines or circulars issued thereunder.

10.4.4. The letter of offer shall contain disclosures as specified in Annexure - 4.

10.4.5. The letter of offer shall also be furnished to the Board in soft copy.

#### **10.5. Application**

10.5.1. The application form for the issue shall be prepared by the investment manager and the investment manager shall make arrangements for distribution of the application form along with letter of offer to all unit holders as on the record date at least five days prior to the opening of the issue.

#### **10.6. Pricing of Units**

10.6.1. The investment manager on behalf of the InvIT shall decide the issue price before determining the record date.

10.6.2. The issue price shall be disclosed in the letter of offer.

#### **10.7. Timelines**

10.7.1. The rights issue shall open within three months from the record date.



10.7.2. The rights issue shall be kept open for at least three working days but not more than fifteen working days.

#### **10.8.Manner of issuance of units**

10.8.1. The units shall be allotted in the dematerialized form only.

10.8.2. The rights entitlements shall be credited to the demat account of the unitholders before the date of opening of the issue. The rights entitlements shall include a right exercisable by the person concerned to renounce the units offered to him/her or any of them in favour of any other person and letter of offer and the notice sent to the unitholders shall contain a statement to this effect.

#### **10.9.Allotment**

10.9.1. The minimum allotment to any investor shall be INR 1 crore.

10.9.2. Allotment shall be made in the following manner:

- a) full allotment to those eligible unitholders who have applied for their rights entitlement either in full or in part and also to the renouncee(s), who has/have applied for the units renounced in their favour, in full or in part, as adjusted for fractional entitlement.
- b) allotment to eligible unitholders who having applied for the units in full to the extent of their rights entitlement and have also applied for additional units shall be made as far as possible on an equitable basis, having due regard to the number of units held by them on the record date, provided there is an undersubscribed portion after making allotment in (a) above.
- c) allotment to the renouncees, who having applied for the units renounced in their favour and also applied for additional units, provided there is an undersubscribed portion after making full allotment specified in (a) and (b) above. The allotment of such additional units may be made on a proportionate basis.

- d) allotment to the underwriter appointed for the issue, if any, at the discretion of the board of directors of the investment manager, subject to disclosure in the letter of offer as applicable.

**10.10. Restriction on further capital issues**

10.10.1. The InvIT shall not make any further issue of units in any manner during the period between the date of filing the letter of offer with the Board and the allotment of the units offered through the letter of offer.

10.10.2. The InvIT shall file an allotment report with the Board providing details of the allottees and allotment made within 15 days of the issue closing date.

**Chapter 11. Requirement of minimum number and holding of unit holders for unlisted InvITs**<sup>27</sup>

11.1. Registered unlisted InvITs which have already issued units as on August 04, 2021, shall comply with the provisions of sub-regulation (3) of Regulation 26B of the InvIT Regulations within a period of six months from August 04, 2021.

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<sup>27</sup> Circular SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/611 dated August 04, 2021

## **Chapter 12. Encumbrance on units of InvITs**<sup>28</sup>

### **12.1. Encumbrance on units**

12.1.1. Entities required to hold units in terms of Regulation 12 of the InvIT Regulations may create encumbrance on such units during the mandatory holding period wherein encumbrance shall include pledge, lien, negative lien, non-disposal undertaking etc. or any other covenant, transaction, condition or arrangement in the nature of encumbrance:

Provided that the conditions for creation and invocation of encumbrance, provided in this chapter, are also included in the agreement executed for the purpose of creation of such encumbrance:

Provided further that such encumbrance shall not be permitted to be invoked during the holding period prescribed in terms of Regulation 12 of the InvIT Regulations.

### **12.2. Obligation of entity creating encumbrance**

12.2.1. Sponsor(s) creating encumbrance on the units held by it, shall provide details of the encumbrance to the investment manager of the InvIT within two working days from the date of creation of such encumbrance in the format specified at Annexure - 9.

Any change in the above information pursuant to release or invocation of encumbrance, or in any other manner, shall also be informed to the investment manager of the InvIT within two working days from the date of such event.

### **12.3. Other obligations**

12.3.1. The InvIT shall within two working days from the receipt of details in terms of clause 12.2 shall disclose such information to every stock exchange where units of the InvIT are listed.

12.3.2. The format for disclosure of unit holding pattern as provided under Annexure B of SEBI circular No. IMD/DF/127/2016 dated November 29, 2016 stands modified. (refer para 4.13.2 of Chapter 4)

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<sup>28</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/43 dated March 23, 2020

**Chapter 13. Manner and mechanism of providing exit option to dissenting unit holders<sup>29</sup>**

13.1. Definitions: For the purpose of this chapter:

13.1.1. “Acquirer” means,

- a) a person who, along with persons acting in concert, intends to acquire units of a listed InvIT; or
- b) a person who intends to be an inducted sponsor as defined under Regulation 2(sb) of InvIT Regulations; or
- c) a sponsor being subject to a change in control, and required to provide an exit option in terms of Regulation 22(5C) or Regulation 22(7) of the InvIT Regulations, as the case may be;

13.1.2. “persons acting in concert” means,—

- a) persons who, with a common objective or purpose of acquisition of units of the InvIT, pursuant to an agreement or understanding, formal or informal, directly or indirectly co-operate for acquisition of units of the InvIT.
- b) Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be persons acting in concert with other persons within the same category, unless the contrary is established, —
  - i. a company, its holding company, subsidiary company and any company under the same management or control;
  - ii. a company, its directors, and any person entrusted with the management of the company;
  - iii. directors of companies referred to in item i) and ii) of this sub-clause and associates of such directors;
  - iv. immediate relatives;

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<sup>29</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/122 dated July 17, 2020

- v. an institutional investor and wherever applicable its sponsor, trustees, trustee company, asset management company;
- vi. a collective investment scheme and its collective investment management company, trustees and trustee company;
- vii. a merchant banker and its client, who is an Acquirer;
- viii. a portfolio manager and its client, who is an Acquirer;
- ix. banks, financial advisors and stock brokers of the Acquirer, or of any company which is a holding company or subsidiary of the Acquirer, and where the Acquirer is an individual, of the immediate relative of such individual:

Provided that this sub-clause shall not apply to a bank whose sole role is that of providing normal commercial banking services or activities in relation to an acquisition/exit option under InvIT Regulations;

- x. an investment company or fund and any person who has an interest in such investment company or fund as a shareholder or unit holder having not less than 10 per cent of the paid-up capital of the investment company or unit capital of the fund, and any other investment company or fund in which such person or his associate holds not less than 10 per cent of the paid-up capital of that investment company or unit capital of that fund:

Provided that nothing contained in this sub-clause shall apply to holding of units of mutual funds registered with the Board;

*Explanation*—For the purposes of this clause “associate” of a person means any person as defined under Regulation 2(1)(b) of InvIT Regulations and shall also include-

- i) trusts of which such person or his immediate relative is a trustee;
- ii) partnership firm in which such person or his immediate relative is a partner; and
- iii) members of Hindu undivided families of which such person is a coparcener

13.1.3. “Cut-off date” means a date not more than three working days before the date of meeting for determining the eligibility to vote;

13.1.4. “Dissenting unit holders” means unit holders as on the cut-off date who have not voted in favour of the resolution proposed in terms of Regulation 22(5C) or Regulation 22(7) of the InvIT Regulations, irrespective of whether present or not;

13.1.5. “Frequently traded units” shall have the same meaning as assigned to it in SEBI circular SEBI/HO/DDHS/DDHS/CIR/P/2019/143 dated November 27, 2019;

13.1.6. [“Relevant date” means the last day of voting for resolution under Regulation 22(5C) or Regulation 22(7) of the InvIT Regulations.

Provided that in case an acquisition described under Regulation 22(5C) or change in sponsor or inducted sponsor or change in control of sponsor or inducted sponsor under regulation 22(7) of InvIT Regulations is triggered pursuant to an open offer under the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011, the relevant date shall mean the date of public announcement made for the acquisition in terms of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011.]<sup>30</sup>

13.2. An acquirer providing exit option to dissenting unitholders in terms of this chapter shall appoint one or more merchant bankers, registered with the Board, as lead manager(s) for the exit option/offer, who shall ensure compliance with the provisions of InvIT Regulations and this chapter. Lead manager(s) shall send the Letter of Offer (LoF) to all dissenting unit holders and shall also file the same along with the due diligence certificate, in line with format specified in Form A in Annexure-I of SEBI circular no. CIR/IMD/DF/55/2016 dated May 11, 2016 (Annexure - 1 of the master circular), with the Exchange(s). The broad contents of LoF are indicated in Annexure - 5.

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<sup>30</sup> Circular No. SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/639 dated October 05, 2021

13.3. Upon completion of exit option process, a due diligence certificate in line with format specified in the Form D in Annexure-I of SEBI circular no. CIR/IMD/DF/55/2016 dated May 11, 2016 (Annexure - 1 of the master circular), shall be filed by the lead manager(s) with the Board within two working days of payment of consideration by the acquirer.

**13.4. Manner and mechanism of exit option:**

13.4.1. The Acquirer shall facilitate tendering of units by the unit holders and settlement of the same through the stock exchange mechanism as specified by SEBI for the purpose of takeover, buy-back and delisting in case of equity listed companies.

13.4.2. Investment Manager (IM) shall be entitled to receive from the Acquirer all expenses incurred and payable to external agencies related to the exit offer process prescribed in this chapter.

13.4.3. Units tendered in exit option shall be in multiples of the trading lot as applicable to the units of the same class of the InvIT, under the existing provisions of the InvIT Regulations and circulars issued thereunder.

13.4.4. Dissenting Unit holders who are unitholders on the cut-off date for the purpose of voting shall be eligible to avail the exit option/offer only in respect of such number of units held by such Dissenting Unitholders on the cut-off date.

13.4.5. A summary of activities pertaining to exit option/offer is indicated below along with the prescribed timelines:

| Activity Description  | Timelines |
|---|-----------|
| Acquirer shall give notice to the IM for the purpose of obtaining approval of the unit holders under Regulation 22(5C) or Regulation 22(7) of InvIT Regulations. Further, a person being inducted as a sponsor shall give declaration to IM with regard to satisfying |           |



| Activity Description   | Timelines  |
|--|--|
| the eligibility conditions prescribed for a sponsor under InvIT Regulations.   |  |
| On receipt of notice, IM shall intimate to stock exchange(s)   | Immediately but not later than twenty four hours from the receipt of such notice   |
| IM shall convene a meeting of unit holders for voting  | Voting to be completed not later than three working days from the cut-off date and within twenty one days from the date of receipt of notice from the acquirer |
| <p>Intimation of outcome of the unit holders' meeting by the IM to Acquirer and stock exchange(s) along with the number of dissenting unit holders and total number of units held by them as of the cut-off date, as certified by its compliance officer.</p> <p>The day of aforesaid intimation by IM shall be construed as "Date of Intimation".</p> | Within forty eight hours of the last day of voting   |
| Acquirer through the Lead Manager shall give a public notice to stock exchange(s) and IM regarding his intention of providing exit option to dissenting unit holders   | Within twenty four hours of the Date of Intimation   |
| Upon receipt of public notice from the Lead Manager, IM shall provide the list of dissenting unit holders to the Lead Manager(s).  | Immediately but not later than twenty four hours from the receipt of public notice from the Acquirer   |

| Activity Description   | Timelines   |
|--|---|
| <p>Acquirer through the Lead Manager(s) shall send the Letter of Offer (LoF) to all dissenting unit holders and file a copy of the same with the stock exchange(s). Lead Manager(s) shall exercise due diligence with regard to all information and disclosures contained in the LoF.</p> <p>The stock exchange(s) shall disseminate the LoF on its website as soon as it receives the same.</p> | <p>Within three working days from the date of public notice by the Acquirer regarding exit option/offer</p> |
| <p>Acquirer shall create an escrow account wherein the aggregate amount of consideration based on the list of dissenting unit holders provided by the IM to Lead Manager would be deposited in the manner specified at para 13.4.7 below.</p>  | <p>At least two working days prior to opening of the tendering period.</p>                                  |
| <p>Tender date and tender period for tendering units in exit option</p>  | <p>Seventh working day from the “Date of Intimation”<br/>Tender period shall be five working days.</p>      |
| <p>Payment of consideration to dissenting unit holders by the Acquirer</p>   | <p>Within a period of three working days from the last date of the tendering period</p>                     |
| <p>Lead Manager shall submit a report to IM that the payment has been duly made to all the dissenting unit holders whose units have been accepted in the exit option.</p>  | <p>Within two working days from the date of payment of consideration</p>                                    |

| Activity Description   | Timelines |
|--|-----------|
| Based on the information received from Lead Manager, IM shall update aggregate number of units tendered, accepted, payment of the consideration and the post-exit option unit holding pattern of the InvIT with stock exchange(s). |           |

13.4.6. [However, in case an acquisition described under Regulation 22(5C) or change in sponsor or change in control of sponsor or inducted sponsor under Regulation 22(7) of InvIT Regulations is triggered pursuant to an open offer under the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011, the summary of activities pertaining to exit option/offer is indicated below along with the prescribed timelines:

| Activity Description  | Timelines   |
|---|---|
| Acquirer to give first notice to IM regarding acquisition which triggers the provision of Regulation 22(5C) or Regulation 22(7) of InvIT Regulations.   | Along with Public Announcement made for the acquisition in terms of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 |
| On receipt of notice, IM shall intimate to stock exchange(s)  | Immediately but not later than twenty four hours from the receipt of such notice  |
| Acquirer shall give second notice to the IM for the purpose of obtaining approval of the unit holders under Regulation 22(5C) or Regulation 22(7) of InvIT Regulations. The acquirer shall also confirm to the IM that it shall give exit option to dissenting unit | Not later than two working days from the completion of the acquisition which triggered the provisions of Regulation 22(5C) or               |

| <b>Activity Description</b>  | <b>Timelines</b>   |
|--|--|
| <p>holders in case approval of the requisite majority is not received.</p> <p>Further, a person being inducted as a sponsor shall give declaration to IM with regard to satisfying the eligibility conditions prescribed for a sponsor under InvIT Regulations.</p>  | <p>Regulation 22(7) of InvIT Regulations</p>   |
| <p>On receipt of second notice, IM shall intimate to stock exchange(s)</p>   | <p>Immediately but not later than twenty four hours from the receipt of such second notice</p>   |
| <p>IM shall convene a meeting of unit holders for voting</p>   | <p>Voting to be completed not later than three working days from the cut-off date and within twenty one days from the date of receipt of second notice from the acquirer</p> |
| <p>Intimation of outcome of the unit holders' meeting by the IM to Acquirer and stock exchange(s) along with the number of dissenting unit holders and total number of units held by them as of the cut-off date, as certified by its compliance officer.</p> <p>IM shall provide the list of dissenting unit holders to the Lead Manager(s).</p> <p>The day of aforesaid intimation by IM shall be construed as "Date of Intimation".</p> | <p>Within forty-eight hours of the last day of voting</p>  |

| Activity Description   | Timelines   |
|--|---|
| <p>Acquirer through the Lead Manager(s) shall send the Letter of Offer (LoF) to all dissenting unit holders and file a copy of the same with the stock exchange(s). Lead Manager(s) shall exercise due diligence with regard to all information and disclosures contained in the LoF.</p> <p>The stock exchange(s) shall disseminate the LoF on its website as soon as it receives the same.</p> | <p>Within three working days from the Date of Intimation</p>  |
| <p>Acquirer shall create an escrow account wherein the aggregate amount of consideration based on the list of dissenting unit holders provided by the IM to Lead Manager would be deposited in the manner specified at para 13.4.7 below.</p>  | <p>At least two working days prior to opening of the tendering period.</p>                                |
| <p>Tender date and tender period for tendering units in exit option</p>  | <p>Seventh working day from the “Date of Intimation”</p> <p>Tender period shall be five working days.</p> |
| <p>Payment of consideration to dissenting unit holders by the Acquirer</p>   | <p>Within a period of three working days from the last date of the tendering period</p>                   |
| <p>Lead Manager shall submit a report to IM that the payment has been duly made to all the dissenting unit holders whose units have been accepted in the exit option.</p>  | <p>Within two working days from the date of payment of consideration]<sup>31</sup></p>                    |

<sup>31</sup> Circular No. SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/639 dated October 05, 2021

| Activity Description   | Timelines |
|--|-----------|
| Based on the information received from Lead Manager, IM shall update aggregate number of units tendered, accepted, payment of the consideration and the post-exit option unit holding pattern of the InvIT with stock exchange(s). |           |

13.4.7. The escrow account referred to in aforesaid table may be in the form of —

- a) cash deposited with any scheduled commercial bank; and/or
- b) bank guarantee issued in favour of the Lead Manager to the exit option/offer by any scheduled commercial bank;
  - i. In the event of the escrow account being created by way of a bank guarantee, the Acquirer shall also ensure that at least one per cent of the total consideration payable is deposited in cash with a scheduled commercial bank as a part of the escrow account.
  - ii. For such part of the escrow account as is in the form of a cash deposit with a scheduled commercial bank, the acquirer shall while opening the account, empower the lead manager to the exit option/offer to instruct the bank to issue a banker's cheque or demand draft or to make payment of the amounts lying to the credit of the escrow account.
  - iii. For such part of the escrow account as is in the form of a bank guarantee, such bank guarantee shall be in favour of the lead manager to the exit option/offer and shall be kept valid throughout the period of exit option/offer and for an additional period of thirty days after completion of payment of consideration to unit holders who have tendered their units in acceptance of the exit option/offer.

### 13.5. Exit Price

13.5.1. The exit price payable to the dissenting unit holders shall be highest of the following:

- a) the highest negotiated price per unit of the InvIT for any acquisition under the agreement attracting the obligation of exit option;
- b) the volume-weighted average price paid or payable for acquisitions, whether by the proposed Acquirer or any person acting in concert with them, during the fifty-two weeks immediately preceding the relevant date;
- c) the highest price paid or payable for any acquisition, whether by the proposed Acquirer or any person acting in concert with them, during the twenty-six weeks immediately preceding the relevant date;
- d) the volume-weighted average market price of such units for a period of sixty trading days immediately preceding the relevant date as traded on the stock exchange where the maximum volume of trading in the units of the InvIT are recorded during such period, provided such units are frequently traded;
- e) Where the units of the InvIT are not frequently traded, the price determined by the Acquirer and the lead manager to the exit option/offer taking into account valuation parameters including the NAV of the InvIT based on a full valuation of all existing InvIT assets conducted in terms of InvIT Regulations, book value, comparable trading multiples, and such other parameters as are customary for valuation of units of such InvITs.

13.5.2. Where the Acquirer has acquired or agreed to acquire whether by himself or through or with persons acting in concert with him any units of the InvIT between the relevant date and the date of payment of consideration to dissenting unit holders, whether by subscription or purchase, at a price higher than the exit option price, the exit option price shall stand revised to the highest price paid or payable for any such acquisition:

Provided that no such acquisition shall be made after the third working day prior to the commencement of the tendering period and until the expiry of the tendering period.

13.5.3. Where the Acquirer or persons acting in concert with him acquires units of the InvIT during the period of twenty-six weeks after the tendering period at a price higher than the exit option price, the Acquirer and persons acting in concert shall pay the difference between the highest acquisition price and the exit option price, to all the unit holders whose units were accepted in the exit option/offer, within sixty days from the date of such acquisition:

Provided that this provision shall not be applicable to acquisitions under another exit option/offer under InvIT Regulations or open market purchases made in the ordinary course on the stock exchanges, not being negotiated acquisition of units of the InvIT whether by way of bulk deals, block deals or in any other form.

13.5.4. [In case an acquisition described under Regulation 22(5C) or change in sponsor or inducted sponsor or change in control of sponsor or inducted sponsor under regulation 22(7) of InvIT Regulations is triggered pursuant to an open offer under the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011, the exit option price shall stand enhanced by an amount equal to a sum determined at the rate of ten per cent per annum for the period between the first notice date and second notice date.]<sup>32</sup>

### **13.6. Maintenance of minimum public unitholding**

13.6.1. If the units tendered in exit option are such that, if accepted may result in public unit holding below the minimum public unit holding norm prescribed under InvIT Regulations, in such scenario, tendered units shall be accepted on proportionate basis so as to maintain the minimum public unit holding post completion of exit option process.

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<sup>32</sup> Circular No. SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/639 dated October 05, 2021



## **Annexures**

**Annexure - 1.**<sup>33</sup>

*[see Chapter 2]*

**FORMATS OF DUE DILIGENCE CERTIFICATES**

**FORM A**

**FORMAT OF DUE DILIGENCE CERTIFICATE TO BE GIVEN BY MERCHANT  
BANKER ALONG WITH DRAFT OFFER DOCUMENT**

**To,**

**Securities and Exchange Board of India**

Dear Sirs,

**Sub.: Public Issue of ..... by..... (Name of the InvIT)**

We, the lead merchant banker(s) to the above mentioned forthcoming issue, state and confirm as follows:

- (1) We have examined various documents including those relating to litigation like commercial disputes, patent disputes, disputes with collaborators, etc. and other material in connection with the finalization of the offer document pertaining to the said issue;
- (2) On the basis of such examination and the discussions with the InvIT, its Sponsor(s) and Investment Manager, directors and other officers, other agencies, and independent verification of the statements concerning the terms of the issue, price justification and the contents of the documents and other papers furnished by the Investment Manager, WE CONFIRM that:
  - (a) the draft offer document filed with the Board is in conformity with the documents, materials and papers relevant to the issue;
  - (b) all the legal requirements relating to the issue as also the regulations guidelines, instructions, etc. framed/issued by the Board, the Central Government and any other competent authority in this behalf have been duly complied with; and
  - (c) the disclosures made in the draft offer document are true, fair and adequate to enable the investors to make a well informed decision as to the investment in the proposed issue and such disclosures are in accordance with the requirements of the InvIT Regulations, circulars, guidelines issued thereunder and other applicable legal requirements.
- (3) We confirm that besides ourselves, all the intermediaries named in the draft offer document are registered with the Board and that till date such registration is valid.

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<sup>33</sup> Circular No. CIR/IMD/DF/55/2016 dated May 11, 2016

- (4) We have satisfied ourselves about the capability of the underwriters to fulfill their underwriting commitments, if any.
- (5) We certify that written consent from sponsors has been obtained for inclusion of their units as part of sponsors contribution.
- (6) We certify that the proposed activities of the InvIT for which the funds are being raised in the present issue fall within the objectives of the Trust as specified in the Trust Deed of the InvIT.
- (7) We confirm that necessary arrangements have been made to ensure that the moneys received pursuant to the issue are kept in a separate bank account and that such moneys shall be released by the said bank only after permission is obtained from all the stock exchanges mentioned in the offer document. We further confirm that the agreement entered into between the bankers to the issue and the Investment manager on behalf of the InvIT specifically contains this condition.
- (8) We certify that the following disclosures have been made in the draft offer document:
  - (a) An undertaking from the Investment manager on behalf of the InvIT that at any given time, there shall be only one denomination for the units of the InvIT and
  - (b) An undertaking from the Investment manager on behalf of the InvIT that it shall comply with such disclosure and accounting norms specified by the Board from time to time.
- (9) We enclose a note explaining how the process of due diligence has been exercised by us with respect to the nature of the assets, the risk factors, net worth and experience of the sponsor/investment manager, experience of the key personnel, etc.
- (10) We enclose a checklist confirming regulation-wise compliance with the applicable provisions of the InvIT Regulations, containing details such as the regulation number, its text, the status of compliance, page number of the draft offer document where the regulation has been complied with and our comments, if any.
- (11) We enclose a checklist confirming clause-wise compliance with the guidelines for public offer issued under the InvIT Regulations.
- (12) We certify that profits from related party transactions have arisen from legitimate business transactions.

**Place:** **Merchant Banker(s) to the Issue**  
**Date: with Official Seal(s)**

**FORM B**  
**FORMAT OF DUE DILIGENCE CERTIFICATE TO BE GIVEN BY MERCHANT  
BANKER AT THE TIME OF FILING OFFER DOCUMENT WITH THE BOARD AND  
THE DESIGNATED STOCK EXCHANGE**

To,

**Securities and Exchange Board of India**

Dear Sirs,

**Sub.: Public Issue of ..... by ..... (Name of the InvIT)**

- (1) This is to certify that the offer document filed with the Board and Stock Exchanges has been suitably updated and that the said offer document contains all the material disclosures in respect of the InvIT as on the said date.
- (2) We confirm that the registrations of all the intermediaries named in the offer document are valid as on date and that none of these intermediaries have been debarred from functioning by any regulatory authority.
- (3) We confirm that agreements have been entered into with both the depositories for dematerialisation of the units of the InvIT.

**Place:**

**Merchant Banker(s) to the Issue**

**Date:**

**with Official Seal(s)**

**FORM C**  
**FORMAT OF DUE DILIGENCE CERTIFICATE TO BE GIVEN BY MERCHANT  
BANKER IMMEDIATELY BEFORE OPENING OF THE ISSUE**

**To,**  
**Securities and Exchange Board of India**

Dear Sirs,

**Sub.: Public Issue of ..... by ..... (Name of the InvIT)**

- (1) This is to certify that all the material disclosures in respect of the InvIT as on the date of opening of the issue have been made through the offer document filed with the Board and designated stock exchange and subsequent amendments/ advertisements (if applicable) dated ..... (Details of advertisements to be enclosed), We confirm:
- (a) that the registrations of all the intermediaries named in the offer document, are valid as on date and that none of these intermediaries have been debarred from functioning by any regulatory authority as on date.
  - (b) that the abridged version of the offer document contains all the disclosures as specified in the InvIT Regulations and circulars thereunder.

**Place:** \_\_\_\_\_ **Merchant Banker(s) to the Issue**  
**Date: with Official Seal(s)**

**FORM D**  
**FORMAT OF DUE DILIGENCE CERTIFICATE TO BE GIVEN BY MERCHANT**  
**BANKER ALONG WITH FINAL POST ISSUE REPORT**

**To,**  
**Securities and Exchange Board of India**

Dear Sirs,

**Sub.: Public issue of ..... by ..... (Name of InvIT)**

We, the under noted post issue lead merchant bankers to the abovementioned issue state as follows:

- (1) We confirm that –
  - (a) for the units offered for lock-in, non-transferability details have been informed to the depositories;
  - (b) details of lock-in have been provided to all the stock exchanges on which units are to be listed, before the listing of the units.
- (2) We certify that units included as minimum sponsors' contribution and the units in excess of minimum sponsors' contribution have been locked-in in terms of Regulation 12 of the InvIT Regulations.
- (3) We certify that provisions regarding lock-in of units held by persons other than sponsors have been duly complied with in accordance with InvIT Regulations.

**Place:** **Merchant Banker(s) to the Issue**  
**Date: with Official Seal(s)**

**Annexure - 2.**<sup>34</sup>

[see Chapter 2]

**FORMATS OF POST ISSUE REPORTS**

**PART A**

**FORMAT OF INITIAL POST ISSUE REPORT FOR PUBLIC ISSUE**

**Subscription Status: (Subscribed/ Undersubscribed)**

**Note:** It is the responsibility of lead merchant banker to give correct information after verifying it from the Investment Manager and the registrar to the issue.

- (1) Name of the InvIT:
- (2) Issue opening date:
- (3) Earliest closing date:
- (4) Actual closing date :
- (5) Date of filing offer document with Board:
- (6) **Issue Details (as per the offer document)**
  - (a) Offer price per unit for different categories :
  - (b) Amount per unit on application for different categories:
  - (c) Issue size: (Rs lakhs)
    - i. Sponsors' contribution :
    - ii. Amount through offer document:
  - (d) Provisional subscription details of public offer
    - i. Total amount to be collected on application: Rs lakhs
    - ii. Amount collected on application: Rs lakhs
    - iii. % subscribed i.e. % of (ii) to (i): (%)
- (7) Please tick mark whether 75% minimum subscription of the amount through offer document is collected. (i) YES (ii) NO

**Signed by**      **Signed by**      **Signed by**  
**Registrars to the Issue** **Investment manager**  
**on behalf of the InvIT**

**Lead Merchant Banker(s)**

**Date:**  
**Place:**

<sup>34</sup> Circular No. CIR/IMD/DF/55/2016 dated May 11, 2016

**PART B**  
**FORMAT OF FINAL POST ISSUE REPORT FOR PUBLIC ISSUE**  
**Subscription Status: (Subscribed / Undersubscribed)**

**Notes:**

- (1) It is the responsibility of lead merchant banker to give correct information after verifying the facts from the investment manager and the registrar to the issue.
- (2) The lead merchant banker shall enclose a certificate from the refund banker that the amount of refund due to investors is deposited in a separate account giving details of the total amount deposited in the account and date of deposit.

**(I) IN CASE OF SUBSCRIBED ISSUE:**

- (1) Name of the InvIT :
- (2) Issue opening date :
- (3) Actual closing date :
- (4) Issue Details (as per the offer document):
  - (a) Offer price per unit :
  - (b) Issue Size : Rs. in lakhs
- (5) 3-Day Report :
  - (a) Due on:
  - (b) Submitted on:
- (6) No. of collecting banks:  
(Also specify no. of bank branches)
- (7) Bank-wise names of branches which did not submit final consolidated certificates from closure of issue and mention the dates when they actually submitted :
- (8) Subscription Details -
  - (i) No. of applications recd. :
  - (ii) No. of units applied for :
  - (iii) Amount of subscription received : Rs.
  - (iv) No. of times issue subscribed :
- (9) Actual Date of finalisation of Basis of Allotment (enclose copy):
- (10) Allotment Details :
  - (a) No. of successful allottees :
  - (b) No. of unsuccessful allottees :
- (11) Actual Date(s) of completion of :
  - (a) Allotment :
  - (b) Refund :
  - (c) Reasons for delay in allotment/refund, if any :
  - (d) Whether interest paid for delayed period, if so, for which period :
- (12) Amount of refund due : Rs.
- (13) Refund Banker(s) (Name and Address):
- (14) Date of transfer of refund amount to Refund Banker, if any :
- (15) Name of Designated Stock Exchange :



- (16) Names of other stock exchanges where listing is sought :
- (17) Date on which application was filed with each stock exchange for listing of units :
- (18) Date when listing and trading permission given by each stock exchange (Enclose copies of permission letters of stock exchanges) :
- (19) Reasons for delay in listing of units for trading, if any :

**(II) IN CASE OF UNDER SUBSCRIBED ISSUE:**

- (1) If the issue is underwritten, mention the amount of issue underwritten :
- (2) Extent of under subscription on the date of closure of the issue
  - (a) Percentage :
  - (b) Amount :
- (3) Total no. of underwriters :
- (4) If devolvement notices had not been issued, mention how the shortfall was met:
- (5) No. of underwriters to whom devolvement notices had been issued :
- (6) Date of issue of devolvement notices :
- (7) No. of underwriters who did not pay devolvement (Please give names, amount underwritten and reasons for not paying) :
- (8) In case of default from underwriters, mention how the shortfall was met:
- (9) In case where FIs/ MFs had subscribed to make up shortfall not as underwriter:
  - (a) Name of FI/MF :
  - (b) No. of units applied for :
  - (c) Amount received :

Certified that the information given above and also in the enclosures are true to the best of our knowledge and no refunds/ allotment are pending in respect of the issue.

Certified that units to be locked in are flagged in the depository system as “units cannot be hypothecated / transferred / sold till .....”

|                                |  |                                |
|--------------------------------|--|--------------------------------|
| <b>Signed by</b>               | <b>Signed by</b>                                     | <b>Signed by</b>               |
| <b>Registrars to the Issue</b> | <b>Investment manager of<br/>behalf of the InvIT</b> | <b>Lead Merchant Banker(s)</b> |

**Place:**  
**Date:**

## Annexure - 3.<sup>35</sup>

[see Chapter 2]

### FORMAT OF ABRIDGED VERSION OF THE OFFER DOCUMENT

#### 1. Summary of the terms of the issue

|   |  |
|---|--|
| Name of the InvIT   |  |
| Name of the sponsor(s), Investment Manager, Project Manager, Trustee  |  |
| Contact details of the Investment Manager   |  |
| Contact details of the Merchant Banker  |  |
| Listing ( including name of stock Exchange(s) where it will be listed and timeline for listing)                   |  |
| Issue Size  |  |
| Option to retain oversubscription ( Amount )  |  |
| Issue Price   |  |
| Face Value  |  |
| Minimum Application and in multiples of __ units thereafter   |  |
| Issue Timing<br>1. Issue Opening Date<br>2. Issue Closing Date<br>3. Pay-in Date<br>4. Expected Date of Allotment |  |
| Issuance mode of the Instrument   |  |
| Depository  |  |
| Objects of the Issue  |  |
| Brief description of the assets under the InvIT   |  |
| Relevant Financial ratios   |  |
| Capital structure of the InvIT assets   |  |
| Brief details of valuation of each asset  |  |
| Brief description of ROFR, if any   |  |
| Brief details of policy of distributions to the unit holders  |  |
| Brief details of fee and expenses charged or chargeable to the InvIT  |  |

#### 2. Top 5 risk factors

<sup>35</sup> Circular No. CIR/IMD/DF/55/2016 dated May 11, 2016

## **Annexure - 4.<sup>36</sup>**

*[see Chapter 10]*

### **Disclosures in a letter of offer by unlisted InvIT**

1. Disclaimer to the effect that the letter of offer relates to an issue being made to existing unit holders as on record date under the InvIT Regulations and these guidelines.
2. The letter of offer shall contain the disclosures as specified under Schedule III of the InvIT Regulations in the following manner:
  - 2.1. The disclosures as per clauses 1, 2, 3, 5, 6, 7(a), 8, 12, 13, 14, 15, 16, 17 and 19 shall be made in the letter of offer.
  - 2.2. The disclosures in clause 2.1 above may be incorporated by reference to disclosures made in any previous placement memorandum or placement document or annual report duly published by the InvIT:  
Provided that the link(s) to such document wherever available, including on the website of the InvIT or SEBI, shall also be provided.  
Provided further that any modification/update in the information provided in such documents shall be suitably incorporated in the letter of offer.
3. Terms of the issue:
  - 3.1. Objects of the issue.
  - 3.2. If the objects of the issue involve financing of any new asset(s), description of such asset(s) as per disclosures required under clause 6 of the Schedule III of the InvIT Regulations.
  - 3.3. If the objects are not being financed solely through the issue proceeds, the details of other financing arrangements for fulfilling the objects of the issue.
4. Related Party Transactions:
  - 4.1. Disclosure as per clause 9 of the Schedule III of the InvIT Regulations, which may be incorporated by reference to disclosures made in any previous placement memorandum or placement document.
  - 4.2. Any disclosures made regarding related party transactions shall also be incorporated by reference to such disclosures.
  - 4.3. Link(s) to document(s) at clauses 4.1 and 4.2 above wherever available, including on the website of the InvIT shall be provided.
5. Valuation (latest available):

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<sup>36</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/223 dated November 04, 2020

- 5.1. Summary of valuation of the assets proposed to be financed through proceeds of the issue
  - 5.2. Valuation methodology.
  - 5.3. Frequency of valuation and declaration of NAV.
  - 5.4. Any disclosures made regarding valuation since the initial offer shall also be incorporated by reference to such disclosures.
  - 5.5. Link(s) to document(s) at clause 5.4 above wherever available, including on the website of the InvIT shall be provided.
  - 5.6. The valuation report of the asset to be financed through proceeds of the issue, if any, shall be provided to Board along with the letter of offer.
6. Financials:
- 6.1. Disclosure as per clauses 11(a) to 11(c), 11(e) to 11(f) of the Schedule III of the InvIT Regulations:  
Provided if the InvIT has undertaken any acquisition or disposal of any material asset(s) after the latest period for which financial information is disclosed in the letter of offer but before the date of filing of the letter of offer, the financial information should be prepared on a pro forma basis certified by statutory auditors of the InvIT for the last completed financial year and the stub period (if any).
  - 6.2. Disclosure as per clause 6.1 above may be incorporated by reference to any public disclosures of financials made under the InvIT Regulations or any circular issued thereunder, along with link(s) to such disclosure(s) wherever available, including on the website of the InvIT.
  - 6.3. Summary of the audited standalone financial statements of the assets proposed to be acquired for the previous three years and the stub period (if any)
7. Distribution including the manner of calculation of the net distributable cash flows, history of distributions made in the last three financial years or from the date of listing of the InvIT and the policy, if any.
8. Manner of Application and Allotment:
- 8.1. How to apply, availability of application forms and letter of offer and mode of payment
  - 8.2. Dealing with Fractional Entitlement: Manner of dealing with fractional entitlement, if any, of the fractional rights etc.
9. Other disclosures:
- 9.1. Unit holding pattern
  - 9.2. Review of credit rating
  - 9.3. Grievance redressal mechanism
  - 9.4. The disclosures in clause 9.1, 9.2 and 9.3 above may be incorporated by reference to any disclosures made under the InvIT Regulations or any circular

issued thereunder, along with link(s) to such disclosure(s) wherever available, including on the website of the InvIT.

9.5. The letter of offer shall contain the process of credit of rights entitlements in the demat accounts and the renunciation thereof.

9.6. Any material development after the date of the latest balance sheet and its impact on the performance and prospects of the InvIT.

10. Such other information as is material and appropriate to enable the investors to make an informed decision.

11. Declarations (to be signed by the board of directors of the investment manager and sponsor)

12. The investment manager shall ensure that the information contained in the letter of offer and the particulars as per audited financial statements in the letter of offer are not more than six months old from the issue opening date.

Provided that InvITs which are in compliance with InvIT Regulations and guidelines issued thereunder may file unaudited financials with limited review for the stub period in the current financial year, subject to making necessary disclosures in this regard including risk factors.

## **Annexure - 5.<sup>37</sup>**

*[see Chapter 13]*

### **Contents of letter of offer (LoF) and certificate by the Merchant Banker**

1. The disclosures prescribed herein are the minimum disclosure requirements to be contained in the LoF for an exit option/offer. The lead manager/Acquirer is free to add any other disclosure(s) which in his opinion is material for the unit holders, provided such disclosure(s) is not presented in an incomplete, inaccurate or misleading manner.
  - 1.1. All the requisite disclosures/statements in respect of the Acquirer, persons who are acting in concert (PAC) with the Acquirer for the purpose of the offer shall be made in the LoF.
  - 1.2. Lead manager shall ensure that the timelines specified for tendering period, payment of consideration to unit holders, etc. are as per the timelines specified in relevant chapter.
  - 1.3. The source from which data / information is obtained should be mentioned in the relevant pages of LoF.
  - 1.4. The LoF shall, inter alia, shall include the following:
    - 1.4.1. Details of the Acquirer (including PAC, if any) including its background, experience, areas of operation, relationship between Acquirers, pre and post exit offer unit holding etc. financial position (financial statements/net worth, as applicable) etc. In case of financial statements, audited Profit & Loss statement, Balance Sheet and Cash Flow statement for last three years along with latest available financial statements. Latest financials should not be older than six months from the date of LoF.
    - 1.4.2. Details of the exit option/offer, statutory approvals and detailed timelines with regard to exit option process including operational terms and conditions etc. subject to which Acquirer(s) would accept the offer.
    - 1.4.3. Details of exit price including total amount of funds required to make the payment of consideration to unit holders, details of escrow account and bank guarantee, as the case may be. It shall also be disclosed that the lead manager has been empowered by Acquirer to realise the value of such escrow account.
    - 1.4.4. Procedure for accepting the offer including disclosure of relevant provisions pertaining to acceptance of units.
    - 1.4.5. In case there is any agreement, mention important features of the agreement(s), acquisition price per unit, number and percentage of units to be acquired under the agreement, name of the seller(s), names of parties to

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<sup>37</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/122 dated July 17, 2020

the agreement, date of agreement, manner of payment of consideration including salient features of the agreement, if any, entered between the Acquirer and PAC with regard to the offer/ acquisition of units.

- 1.4.6. Due diligence certificate of Lead Manager & Declaration by the Acquirer (including PAC, if any) including statements regarding the Acquirer's responsibility for the information contained in the LoF and a statement to the effect that the Acquirer (including PAC, if any) would be responsible for ensuring compliance with relevant chapter shall be incorporated in the LoF.
2. The due diligence certificate to be filed with exchange(s) along with the LoF shall inter-alia undertake that lead manager(s) have examined all relevant information and documents pertaining to this exit option/offer. Certificate shall also include that letter of offer filed with the exchange(s) is in conformity with the documents, materials and papers relevant to the exit option/offer. The lead manager(s) shall be responsible for ensuring compliance with SEBI rules, regulation and the provisions of relevant chapter and lead manager(s) shall continue to be responsible until completion of the exit option process and for any related matter thereafter.
3. Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board.
4. In the due diligence certificate to be submitted to SEBI upon completion of exit option process, the lead manager(s) shall confirm compliance with all provisions of relevant chapter by the Acquirer and the certificate shall also mention that information disclosed in the LoF was true and correct to the best of his knowledge and was obtained after exercising proper due diligence.

## **Annexure - 6.<sup>38</sup>**

*[see Chapter 9]*

### **Disclosures in a letter of offer**

1. Disclaimer to the effect that the letter of offer relates to an issue being made to existing unit holders as on record date under the InvIT Regulations and applicable guidelines.
2. The draft letter of offer and the letter of offer shall contain the disclosures as specified under Schedule III of the InvIT Regulations in the following manner:
  - a) The disclosures as per clauses 1, 2, 3, 5, 6, 7(a), 8, 12, 13, 14, 15, 16, 17 and 19 shall be made in the letter of offer.
  - b) The disclosures in clause (a) above may be incorporated by reference to disclosures made in any previous offer document or placement memorandum or placement document or annual report duly published by the InvIT:

Provided that the link(s) to such document wherever available, including on the website of the InvIT, stock exchanges or SEBI, shall also be provided.

Provided further that any modification/update in the information provided in such documents shall be suitably incorporated in the draft letter of offer and the letter of offer.

3. Terms of the issue:
  - a) Objects of the issue.
  - b) If the objects of the issue involve financing of any new asset(s), description of such asset(s) as per disclosures required under clause 6 of the Schedule III of the InvIT Regulations.
  - c) If the objects are not being financed solely through the issue proceeds, the details of other financing arrangements for fulfilling the objects of the issue.
4. Intention and extent of participation by the sponsor(s) and their associates in the issue with respect to:
  - a) their rights entitlement
  - b) the unsubscribed portion over and above their rights entitlement:

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<sup>38</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/10 dated January 17, 2020



Provided that such participation shall not result in a breach of the minimum public unitholding requirement.

5. Related Party Transactions:

- a) Disclosure as per clause 9 of the Schedule III of the InvIT Regulations, which may be incorporated by reference to disclosures made in any previous offer document or placement memorandum or placement document.
- b) Any disclosures made regarding related party transactions shall also be incorporated by reference to such disclosures.
- c) Link(s) to document(s) at (a) and (b) above wherever available, including on the website of the InvIT, stock exchanges, shall be provided.

6. Valuation (latest available):

- a) Summary of valuation of the assets proposed to be financed through proceeds of the issue
- b) Valuation methodology.
- c) Frequency of valuation and declaration of NAV.
- d) Any disclosures made regarding valuation since the initial offer shall also be incorporated by reference to such disclosures.
- e) Link(s) to document(s) at (d) above wherever available, including on the website of the InvIT, stock exchanges, shall be provided.
- f) The valuation report of the asset to be financed through proceeds of the issue, if any, shall be provided to Board along with the draft letter of offer and letter of offer.

7. Financials:

- a) Disclosure as per clauses 11(a) to 11(c), 11(e) to 11(f) of the Schedule III of the InvIT Regulations:  
[Provided if the InvIT has undertaken any acquisition or disposal of any material asset(s) after the latest period for which financial information is disclosed in the letter of offer but before the date of filing of the letter of offer, the financial information should be prepared on a pro forma basis certified by statutory auditors of the InvIT for the last completed financial year and the stub period (if any).]<sup>39</sup>
- b) Disclosure as per clause (a) above may be incorporated by reference to any public disclosures of financials made under the InvIT Regulations or any circular issued thereunder, along with link(s) to such disclosure(s) wherever available, including on the website of the InvIT, stock exchanges.

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<sup>39</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/36 dated March 13, 2020

- c) Summary of financial statement of the assets being acquired for the previous three years.
8. Distribution including the manner of calculation of the net distributable cash flows, history of distributions made in the last three financial years or from the date of listing of the InvIT and the policy, if any.
9. Manner of Application and Allotment:
  - a) How to apply, availability of application forms and letter of offer and mode of payment
  - b) Allotment and renunciation in even lots
  - c) Dealing with Fractional Entitlement: Manner of dealing with fractional entitlement, if any, of the fractional rights etc.
10. Other disclosures:
  - a) Unit holding pattern
  - b) Review of credit rating
  - c) Grievance redressal mechanism
  - d) The disclosures in clause (a), (b) and (c) above may be incorporated by reference to any public disclosures made under the InvIT Regulations or any circular issued thereunder, along with link(s) to such disclosure(s) wherever available, including on the website of the InvIT, stock exchanges.
  - e) The draft letter of offer and letter of offer shall contain the process of credit of rights entitlements in the demat accounts and the renunciation thereof.
  - f) Any material development after the date of the latest balance sheet and its impact on the performance and prospects of the InvIT.
11. Such other information as is material and appropriate to enable the investors to make an informed decision.
12. Declarations (to be signed by the board of directors of the investment manager and sponsor)
13. The lead merchant banker shall ensure that the information contained in the draft letter of offer and letter of offer and the particulars as per audited financial statements in the letter of offer are not more than six months old from the issue opening date. Provided that InvITs which are in compliance with InvIT Regulations and guidelines issued thereunder may file unaudited financials with limited review for the stub period in the current financial year, subject to making necessary disclosures in this regard including risk factors.

## **Annexure - 7.<sup>40</sup>**

*[see Chapter 7]*

### **Disclosures to be made by the issuer**

1. Disclaimer to the effect that the preliminary placement document and placement document relates to an issue being made to institutional investors under the InvIT Regulations and applicable guidelines and that no issue is being made to the public or any other class of investors.
2. Market Price Information
  - 2.1. Disclose particulars of:
    - i. high, low and average market prices of units of the InvIT during the preceding three years or since the date of listing, as applicable, until the date of the preliminary placement document and placement document;
    - ii. monthly high and low prices for the six months preceding the date of filing of the preliminary placement document and placement document, as applicable;
    - iii. number of units traded on the days when high and low prices were recorded in the relevant stock exchange during period of (a) and (b) above, and total volume traded on those dates;
  - 2.2. The stock market data specified in paragraph 2.1 above shall be shown separately for periods marked by a change in capital structure, with such period commencing from the date the concerned stock exchange recognizes the change in the capital structure
  - 2.3. The market price immediately after the date on which the resolution of the board of directors of the investment manager of the issuer approving the institutional placement was passed.
  - 2.4. Valuation report which forms the basis for calculation of issue price for infrequently traded units.(if applicable)
3. The preliminary placement document and placement document shall contain the disclosures as specified under schedule III of the InvIT Regulations in the following manner:
  - a) The disclosures as per clauses 1, 2, 3, 5, 6, 7(a), 8, 12, 13, 14, 15, 16, 17 and 19 shall be made in the preliminary placement document and placement document.
  - b) The disclosures in clause (a) above may be incorporated by reference to disclosures made in any previous offer document or placement

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<sup>40</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2019/143 dated November 27, 2019

memorandum or placement document or annual report duly published by the InvIT:

Provided that the link(s) to such document wherever available, including on the website of the issuer, stock exchanges or SEBI, shall also be provided. Provided further that any modification/update in the information provided in such documents shall be suitably incorporated in the disclosure document.

4. Terms of the issue:

- a) Objects of the issue.
- b) If the objects of the issue involve financing of any new asset(s), description of such asset(s) as per disclosures required under clause 6 of the Schedule III of the InvIT Regulations.
- c) If the objects are not being financed solely through the issue proceeds, the details of other financing arrangements for fulfilling the objects of the issue.

5. Related Party Transactions:

- a) Disclosure as per clause 9 of the Schedule III of the InvIT Regulations, which may be incorporated by reference to disclosures made in any previous offer document or placement memorandum or placement document.
- b) Any disclosures made regarding related party transactions shall also be incorporated by reference to such disclosures.
- c) Link(s) to document(s) at (a) and (b) above wherever available, including on the website of the InvIT, stock exchanges, shall be provided.

6. Valuation:

- a) Summary of valuation of the assets proposed to be financed through proceeds of the issue
- b) Valuation methodology.
- c) Frequency of valuation and declaration of NAV.
- d) Any disclosures made regarding valuation since the initial offer shall also be incorporated by reference to such disclosures.
- e) Link(s) to document(s) at (d) above wherever available, including on the website of the InvIT, stock exchanges, shall be provided.
- f) The valuation report of the asset to be financed through proceeds of the issue, if any, shall be provided along with the preliminary placement document and placement document.

7. Financials:

- a) Disclosure as per clauses 11(a) to 11(c) and 11(e) to 11(f) of the Schedule III of the InvIT Regulations:  
[Provided that if the InvIT has undertaken any acquisition or disposal of any material assets after the latest period for which the financial information is disclosed in the placement document but before the date of placement document, the pro forma financial statements shall be prepared and certified by statutory auditors for the last completed financial year and the stub period (if any).

- b) Summary of the audited standalone financial statements of the assets proposed to be acquired for the previous three years and the stub period (if any)
  - c) Disclosure as per clause (a) above may be incorporated by reference to any public disclosures of financials made under the InvIT Regulations or any circular issued thereunder, along with link(s) to such disclosure(s) wherever available, including on the website of the InvIT, stock exchanges.]<sup>41</sup>
8. Distribution including the manner of calculation of the net distributable cash flows, history of distributions made in the last three financial years or from the date of listing of the InvIT and the policy, if any.
9. Other disclosures:
- a) Unit holding pattern
  - b) Review of Credit Rating
  - c) Grievance redressal mechanism
  - d) The disclosures in clause (a), (b) and (c) above may be incorporated by reference to any public disclosures made under the InvIT Regulations or any circular issued thereunder, along with link(s) to such disclosure(s) wherever available, including on the website of the InvIT, stock exchanges.
10. Declarations (to be signed by the board of directors of the investment manager and the trustee)
11. [The lead merchant banker shall ensure that the information contained in the draft placement document and placement document and the particulars as per audited financial statements are not more than six months old from the issue opening date:

Provided that InvITs which are in compliance with InvIT Regulations and guidelines issued thereunder may file unaudited financials with limited review for the stub period in the current financial year, subject to making necessary disclosures in this regard including risk factors.]<sup>42</sup>

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<sup>41</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/36 dated March 13, 2020

<sup>42</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/36 dated March 13, 2020

**Annexure - 8.<sup>43</sup>**

[see Chapter 4]

| <b>For Financial Year (FY) _____</b>                                   |  |                          |
|--|--|--------------------------|
|  | <b>All complaints including complaints</b> | <b>SCORES complaints</b> |
| Number of investor complaints pending at the beginning of the year.    |  |                          |
| Number of investor complaints received during the year.                |  |                          |
| Number of investor complaints disposed of during the year.             |  |                          |
| Number of investor complaints pending at the end of the year.          |  |                          |
| Average time taken for redressal of complaints                         |  |                          |
| <b>For Quarter Ending (QE) _____</b>                                   |  |                          |
|  | <b>All complaints including complaints</b> | <b>SCORES complaints</b> |
| Number of investor complaints pending at the beginning of the Quarter. |  |                          |
| Number of investor complaints received during the Quarter.             |  |                          |
| Number of investor complaints disposed of during the Quarter.          |  |                          |
| Number of investor complaints pending at the end of the Quarter.       |  |                          |
| Average time taken for redressal of complaints for the Quarter         |  |                          |

| <b>Complaints pending during FY/QE _____</b> |                          |                   |                   |                   |                    |                               |              |
|--|--------------------------|-------------------|-------------------|-------------------|--------------------|-------------------------------|--------------|
|  | <b>Less than 1 month</b> | <b>1-3 months</b> | <b>3-6 months</b> | <b>6-9 months</b> | <b>9-12 months</b> | <b>Greater than 12 months</b> | <b>Total</b> |
| <b>All complaints</b>                        |                          |                   |                   |                   |                    |                               |              |

<sup>43</sup> Circular No. SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2021/600 dated July 22, 2021

|   |                                  |                       |                       |                       |                        |                                       |              |
|---|----------------------------------|-----------------------|-----------------------|-----------------------|------------------------|---------------------------------------|--------------|
| <b>SCORES<br/>complaints</b>            |                                  |                       |                       |                       |                        |                                       |              |
| <b>Complaints resolved during FY/QE</b> |                                  |                       |                       |                       |                        |                                       |              |
|   | <b>Less<br/>than 1<br/>month</b> | <b>1-3<br/>months</b> | <b>3-6<br/>months</b> | <b>6-9<br/>months</b> | <b>9-12<br/>months</b> | <b>Greater<br/>than 12<br/>months</b> | <b>Total</b> |
| <b>All<br/>complaints</b>               |                                  |                       |                       |                       |                        |                                       |              |
| <b>SCORES<br/>complaints</b>            |                                  |                       |                       |                       |                        |                                       |              |

## Annexure - 9.<sup>44</sup>

[see Chapter 12]

### Format for disclosure of details of encumbrance

|  |  |
|--|--|
| Name of InvIT  |  |
| Name of the recognised stock exchanges where the units of InvIT are listed |  |
| Name of the sponsor as applicable  |  |
| Total unitholding  | No. of units –<br>% of total outstanding units - |

| <b>Specific details about the encumbrance</b>                 |   |
|---|---|
|   | Encumbrance<br>(Date of creation of<br>encumbrance: _____ ) |
| Type of encumbrance   |   |
| No. and % of units encumbered                                 | No. of units:<br>% of total outstanding units:              |
| Encumbered units as a % of total units held                   |   |
| Period of encumbrance   |   |
| Name of the entity in whose favour units have been encumbered |   |
| Purpose of borrowing  |   |

Signature of Authorised Signatory:

Place:

Date:

<sup>44</sup> Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/43 dated March 23, 2020



### List of circulars

| <b>Date</b> | <b>Subject</b>   |
|-------------|--|
| 11/05/2016  | Guidelines for public issue of units of InvITs   |
| 20/10/2016  | Disclosure of financial information in offer document/placement memorandum for InvITs  |
| 29/11/2016  | Continuous disclosures and compliances by InvITs   |
| 24/07/2017  | Online Filing System for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)   |
| 18/01/2018  | Participation by Strategic Investor(s) in InvITs and REITs   |
| 13/04/2018  | Guidelines for issuance of debt securities by Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)  |
| 15/01/2019  | Guidelines for public issue of units of InvITs - Amendments  |
| 23/04/2019  | Guidelines for determination of allotment and trading lot size for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)   |
| 27/11/2019  | Guidelines for preferential issue of units and institutional placement of units by a listed Infrastructure Investment Trust (InvIT)  |
| 24/12/2019  | Guidelines for filing of placement memorandum - InvITs proposed to be listed   |
| 17/01/2020  | Guidelines for rights issue of units by a listed Infrastructure Investment Trust (InvIT)   |
| 13/03/2020  | Amendments to guidelines for rights issue, preferential issue and institutional placement of units by a listed InvIT   |
| 23/03/2020  | Encumbrance on units of Infrastructure Investment Trusts (InvITs)  |
| 17/07/2020  | Manner and mechanism of providing exit option to dissenting unit holders pursuant to Regulation 22(5C) and Regulation 22(7) of SEBI Infrastructure Investment Trusts Regulations, 2014                 |
| 28/09/2020  | Amendments to guidelines for preferential issue and institutional placement of units by a listed InvIT   |
| 04/11/2020  | Guidelines for rights issue of units by an unlisted Infrastructure Investment Trust (InvIT)  |
| 17/11/2020  | Amendments to guidelines for preferential issue and institutional placement of units by a listed InvIT   |
| 22/07/2021  | Continuous disclosures in compliances by InvITs - Amendments   |
| 04/08/2021  | Requirement of minimum number and holding of unit holders for unlisted Infrastructure Investment Trusts (InvITs)   |
| 05/10/2021  | Amendments to manner and mechanism of providing exit option to dissenting unit holders pursuant to Regulation 22(5C) and Regulation 22(7) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 |