CLIENT UPDATE

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EXECUTIVE SUMMARY

REAL ESTATE INVESTMENT TRUSTS & INFRASTRUCTURE INVESTMENT TRUSTS

The Securities and Exchange Board of India received suggestions for establishing a framework for Real Estate Investment Trusts and Infrastructure Investment Trusts in the country, based on which, it drafted structures that would provide an additional funding avenue for the infrastructure and real estate sectors in India. On September 26, 2014, SEBI came out with regulations on Real Estate Investment Trusts and Infrastructure Investment Trusts. These trusts are investment trusts that operate much like mutual funds except for the fact that they invest in income generating real estate and infrastructure assets receptivity, making it possible for smaller investors to invest in real estate and infrastructure projects. This document lays down some of the keys features of the new regulations.

J U R I S L E G A L

1. SEBI (REAL ESTATE INVESTMENT TRUSTS) REGULATIONS, 2014

The Securities and Exchange Board of India ("**SEBI**") on September 26, 2014 published regulations that will govern Real Estate Investment Trusts ("**REITs**") and Infrastructure Investment Trusts ("**InvITs**") in India. A REIT is a trust set up under the provisions of the Indian Trusts Act, 1882, and registered with SEBI under the SEBI (Real Estate Investment Trusts) Regulations, 2014 ("**REIT Regulations**").

Key features of the REIT Regulations are as follows:

- REITs shall be set up as trust and registered with SEBI.
- REITS shall invest in commercial real estate either directly or through special purpose vehicles ("**SPVs**").
- Mandatory listing on a recognized Stock Exchange.
- The minimum public holding in REITs should be 25 per cent while the total number of outstanding units at all times as well as the number of unit holders, who are part of the public, should be 200.
- The minimum subscription amount in initial offer is Rs.2 lac and minimum subscribers shall not be less than 20.
- REITs can raise money through follow-on offers, rights issues or qualified institutional placements and the trading lot for such units will be Rs.1 lakh.
- The REITs have to distribute at least 90 per cent of their net distributable cash flows to the investors.
- To ensure transparency, every REIT has to undergo a yearly valuation and declare its net asset values within 15 days of the exercise.
- A REIT will be required to have assets worth at least Rs.500 crore at the time of an initial offer and the minimum issue size has to be Rs.250 crore.
- No REIT can invest more than 10 per cent in properties that are under construction.
- Every REIT has to invest at least in two projects, with a maximum of 60 per cent of assets going towards one project.
- A REIT may have up to three sponsors, with each holding at least 5 per cent and collectively holding at least 25 percent for a period of at least three years from the date of listing. Subsequently, the sponsors' combined holding has to be at least 15 per cent throughout the life of the REIT.
- Not more than 20 per cent of the value of REIT asset shall be invested in developmental properties, mortgage backed securities, government securities, listed/unlisted debt of companies, etc.
- Leveraging shall not exceed 49 per cent.

2. SEBI (INFRASTRUCTURE INVESTMENT TRUSTS) REGULATIONS, 2014

InvITs are a special type of investment vehicle which operate more like mutual funds but invest in infrastructure sector for returns. In this sector the income is usually generated through investments in building roads, bridges, ports, etc., and the returns from such investments are passed on to the investors in the InvITs.

Key features of the SEBI (Infrastructure Investment Trusts) Regulations, 2014 (the "**InvITs Regulations**") are as follows:

- It is mandatory for both publicly listed and privately placed InvITs to get listed on a recognized stock exchange and the listing of the units shall be in accordance with the listing agreement entered into between the InvIT and the designated stock exchanges.

- No initial offer shall be made unless the InvIT is registered with the SEBI and the value of the proposed holding of the InvIT in the underlying assets is not less than Rs. 500 crore and the offer size is not less than Rs. 250 crore.

- If an investment trust proposes to invest at least 80 per cent of its assets in completed and revenue generating infrastructure assets, it has to raise funds through a public issue of units. These sales will need to have a minimum subscription size and trading lot of at least Rs.5 lakh.

- Of the remaining 20 per cent, such trusts can invest a maximum of 10 per cent in under-construction infrastructure projects. If such a trust proposes to invest more than 10 per cent of its assets in under-construction public works, it has to mandatorily raise funds through private placement from qualified institutional buyers (typically banks and other financial institutions) and corporate bodies only, according to the draft norms.

- For such trusts, the minimum investment and trading lot will be of Rs.1 crore and a part of the assets under such trusts will have to be mandatorily invested in at least one completed and revenue generating project and in at least one pre-COD (commercial operation date) project.