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SECURITIES AND EXCHANGE BOARD OF INDIA
NOTIFICATION
Mumbai, the 10th April, 2018

SECURITIES AND EXCHANGE BOARD OF INDIA (REAL ESTATE INVESTMENT TRUSTS) (AMENDMENT) REGULATIONS, 2018

No. SEBI/LAD-NRO/GN/2018/06 - In exercise of the powers conferred by section 30 read with sections 11 and 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014, namely,-

1. These regulations may be called the Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2018.

2. They shall come into force on the date of their publication in the Official Gazette.

3. In the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014, -

I. in regulation 2, in sub-regulation (1), -

   a. in clause (g), in Explanation to sub-clause (ii), the word "more" shall be substituted with the words "not less".

   b. in clause (qa), in sub-clause (i), -

i. the words “controlling interest and” shall be omitted; and

ii. the word “one” appearing after the word “fifty” shall also be omitted.

c. in clause (zj), the existing definition of the term “real estate assets” shall be substituted with the following, namely –

““real estate assets” means properties held by REIT, on a freehold or leasehold basis, whether directly or through a holdco and/or a special purpose vehicle.”

d. in clause (zn), the existing definition of the term “REIT assets” shall be substituted with the following, namely –

““REIT assets” means real estate assets and any other assets held by the REIT, on a freehold or leasehold basis, whether directly or through a holdco and/or a special purpose vehicle.”

e. in clause (zo), in sub-clause (iii) thereto, the word “sponsors” shall be omitted and the word “promoters” shall be inserted.

f. in clause (zs), in sub-clause (i) -

i. the words “controlling interest and” shall be omitted; and

ii. the word “one” appearing after the word “fifty” shall also be omitted.

g. in clause (ztb), in sub-clause (c) thereto, the word “and” shall be substituted with the words and symbol “and/or”.

II. in regulation 3, in sub-regulation (3), the word “applicant” shall be substituted with the word “REIT”.

III. in regulation 4, -

a. in sub-regulation (1), the words “an applicant” shall be substituted with the words “the trust”.

b. in sub-regulation (2), -

i. in clause (d), after the existing proviso to sub-clause (ia), the following new proviso shall be inserted, namely -

“Provided further that, of the entities categorized as sponsor group, only the following entities may be considered:

a) a person or entity who is directly or indirectly holding an interest or shareholding in any of the assets or SPVs or holdcos proposed to be transferred to the REIT.

b) a person or entity who is directly or indirectly holding units of the REIT on post-issue basis.

c) a person or entity whose experience is being utilized by the sponsor for meeting with the eligibility conditions required under sub-clause (iii) of clause (d) of sub-regulation (2) of regulation 4 of these regulations.”

ii. in clause (e), in sub-clause (iv) thereto, after the words “governing Board” and before the words “of another REIT”, the words “of the manager” shall be inserted.

iii. in clause (j), the word “applicant” shall be substituted with the word “REIT”.

IV. in regulation 6, in sub-regulation (1), the word “applicant” shall be substituted with the word “trust”.

V. in regulation 8, in sub-regulation (1), the word “applicant” appearing for the first time shall be substituted with the word “trust”.

VI. in regulation 11, in sub-regulation (2), -

a. the word “focument” appearing in the sub-regulation shall be read as “document”;

b. the words “and rights” shall be inserted after the words “their entire shareholding or interest”;

c. in the *proviso,* the words “and rights” shall be inserted after the words “mandatory holding of shares or interest”;

d. in the *proviso*, after the words “by the sponsor(s)”, the words “and sponsor group(s)” shall be inserted; and

e. in the *proviso*, the word “under” shall be inserted after the word “required” and before the words “any Act”.

VII. in regulation 14, in sub-regulation (2), in clause (b), for the words “all the assets owned by REIT”, the words “the REIT assets” shall be substituted.

VIII. in regulation 18, -

a. in sub-regulation (3), -

i. in clause (a), -

a) the word “have” shall be substituted with the word “exercise”;

b) the words “shall be” appearing after the word “agreement” shall be substituted with the words “ has been”;

c) the following new *provisos* shall be inserted in clause (a) –

“Provided that the shareholders’ agreement or partnership agreement shall provide for an appropriate mechanism for resolution of disputes between the REIT and the other shareholders or partners in the SPV;

Provided further that the provisions of these regulations shall prevail in case of inconsistencies between such agreement(s) and the obligations cast upon a REIT under these regulations.”

ii. the existing clause (b) shall be substituted with the following clause, namely-

“(b) the manager, in consultation with the trustee, shall appoint atleast such number of nominees on the board of directors or the governing board of such SPVs, as applicable, which are in proportion to the shareholding or holding interest of the REIT in the SPV;”

b. in sub-regulation 3A, -

i. after the word “subject”, the word “to” shall be inserted;

ii. in clause (b), -

a) the word “have” shall be omitted and in its place the word “exercise” shall be inserted;

b) the words “shall be” appearing after the word “agreement” shall be substituted with the words “ has been”;

c) the following new *provisos* shall be inserted in the said clause, namely –

“Provided that the shareholders’ agreement or partnership agreement shall provide for an appropriate mechanism for resolution of disputes between the REIT and the other shareholders or partners in the holdco and/or SPV;

Provided further that the provisions of these regulations shall prevail in case of inconsistencies between such agreement(s) and the obligations cast upon a REIT under these regulations.”

iii. the existing clause (c) shall be substituted with the following clause, namely-

“(c) the manager, in consultation with the Trustee, shall appoint atleast such number of nominees on the board of directors or the governing board of the holdco and/or the SPV, which are in proportion to the shareholding or holding interest of the REIT/holdco in the SPV;”

c. in sub-regulation (5), -

i. in clause (a), after the word and symbol “properties,” the words and symbol “whether directly or through a company or LLP,” shall be inserted.

ii. in clause (d), the words “which are” shall be inserted after the word “companies”.

iii. after clause (d), the following new clause shall be inserted, namely –

“(da) unlisted equity shares of companies which derive not less than seventy five per cent. of their operating income from real estate activity as per the audited accounts of the previous financial year:

Provided that the investments, made through unlisted equity shares of a company, in under construction properties and/or completed and not rent generating properties, shall be in compliance with clause (a) of this sub-regulation.

d. in sub-regulation (6), after the words “one per cent. of the” and before the words “ revenues of the REIT”, the word “consolidated” shall be inserted.

e. sub-regulation (7) shall be omitted.

IX. in Schedule I, -

a. in clause 1 dealing with ‘General Information’, in clause (c) thereto, the word “applicant” shall be substituted with the word “trust”.

b. in clause 2, -

i. the heading thereto shall be substituted with the words “Details of Trust”;

ii. in sub-clause (a), the word “applicant” shall be substituted with the word “trust”.

c. in clause 3, the following new sub-clause shall be inserted after clause (h), namely-

"(i) Copy of the executed Trust Deed."

d. in clause 5, in sub-clause (d), the word "executed" shall be inserted between the words "of" and "Investment".

e. in clause 7, in sub-clause (a), the word "applicant" shall be substituted with the word "REIT".

f. in clause 8, in sub-clause (b), the words "applicant, sponsor and Manager" shall be substituted with the words "REIT and the parties to the REIT".

X. in Schedule III, in clause 13, in sub-clause (b), the symbol and words ", in the past 5 years" shall be omitted.

XI. In Schedule V, in clause (e), -

a. in sub-clause (iii), in point 2, the words and symbol "gross floor area, net lettable floor area" shall be omitted and in their place, the words "developable area, leasable area, completed area, occupied area" shall be inserted.

b. in sub-clause (xxi), the words "and closed" shall be omitted.

Sd/-

AJAY TYAGI

CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Footnote:

1. The Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 was published in the Gazette of India on September 26, 2014 vide No. LAD-NRO/GN/2014-15/11/1576.

2. The Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 was subsequently amended –

    a. by the Securities and Exchange Board of India (Real Estate Investment Trusts)(Amendment) Regulations, 2016, vide No. SEBI/LAD/NRO/GN/2016-17/22, with effect from November 30, 2016; and

    b. by the Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2017, vide No. SEBI/LAD-NRO/GN/2017-18/022, with effect from December 15, 2017.

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