



भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

DEPUTY GENERAL MANAGER  
DEPARTMENT OF DEBT AND HYBRID SECURITIES

SEBI/HO/DDHS/OW/P/13826/2021  
June 29, 2021

**Ambit Private Limited**  
Ambit House, 449,  
Senapati Bapat Marg,  
Lower Parel,  
Mumbai - 400013

Kind Attention: Shri Rahul Mody (Managing Director)

Dear Sir,

**Subject: Informal guidance by way of an interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 in relation to a preferential issue of units to natural person by privately placed listed Infrastructure Investment Trust**

1. This has reference to your letter dated May 28, 2021 wherein you have sought informal guidance by way of an "Interpretive letter" from SEBI under the SEBI (Informal Guidance) Scheme, 2003.
2. In the letter under reference, you have, *inter-alia*, represented the following:
  - 2.1. Tower Infrastructure Trust ("Tower InvIT") is a privately placed listed infrastructure investment trust registered with SEBI. This application is with respect to the proposed acquisition of securities of Space Teleinfra Private Limited ("target SPV") by Tower InvIT, consideration for which is proposed to be a combination of cash and fresh issuance of units of the Tower InvIT in exchange for the securities held by the Existing Shareholders of the target SPV.
  - 2.2. The InvIT Regulations specify the conditions applicable for an initial offer of units by a to be listed InvIT including the categories of eligible investors. However, any subsequent issue of units by a listed InvIT is required to be undertaken in the manner specified by SEBI. Accordingly, SEBI issued the 'Guidelines on preferential issues and institutional placements by listed InvITs' issued by SEBI

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through its circular dated November 27, 2019 (ref. no: SEBI/HO/DDHS/DDHS/CIR/P/2019/143) ("Preferential Issue Guidelines").

- 2.3. The units to the Existing Shareholders are proposed to be issued through preferential issue(s) of units by the Tower InvIT in accordance with the Preferential Issue Guidelines.
- 2.4. Regulation 14 specifically deals with initial offers by an InvIT and an initial offer by a listed InvIT through a private placement is required to comply with Regulation 14(2) (i.e., it shall be made through a placement memorandum and can only be made to institutional investors and body corporates in accordance with Regulation 14(2)(a) and (b)). However, the InvIT Regulations do not set out any specific requirements applicable to a preferential issue by a listed InvIT.
- 2.5. The Preferential Issue Guidelines do not contain any restrictions on the nature of investors in case of a preferential issue and on the contrary envisages allotment to individuals by referring to participation by directors or key managerial personnel of parties to an InvIT. Moreover, neither the InvIT Regulations nor any circulars issued pursuant to same impose any restriction on purchase of units of privately placed listed InvITs by individuals from secondary markets (subject to minimum trading lot).
- 2.6. There is no restriction under the InvIT Regulations or the Preferential Issue Guidelines which prohibits allotment of units to natural persons pursuant to a preferential issue under the Preferential Issue Guidelines.
- 2.7. It is interpreted that a privately placed listed InvIT (in this case, Tower InvIT) is permitted to issue units to natural persons (in this case, the Existing Shareholders) in exchange for receipt of securities of the target SPV on a preferential basis, in accordance with the InvIT Regulations and the Preferential Issue Guidelines.

### 3. Queries

- 3.1. In light of the above submissions, you have requested SEBI to issue an "Interpretive letter" under paragraph 5 of the Informal Guidance Scheme, 2003, on the following:



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*Whether a privately placed listed Infrastructure Investment Trust ("InvIT") (in this case the Tower InvIT), which fulfils the eligibility criteria for undertaking a preferential issue under the InvIT Regulations is permitted to issue and allot units to natural persons (in this case the Existing Shareholders) under the Preferential Issue Guidelines in exchange for receipt of securities of the target SPV?*

**4. Our comments**

We have considered the submissions made by you in the letter under reference. Our views on the queries raised by you are as under:

4.1. The provisions of InvIT Regulations relevant to the subject matter are quoted below:

*"2(1)(zo) "preferential issue" means an issue of units by a listed InvIT to any select person or group of persons on a private placement basis and does not include an offer of units made through a public issue, rights issue, bonus issue, qualified institutions placement or any other issue as may be specified by the Board;"*

*"2(1)(zoa) "private placement" means an issue of units by an InvIT to any select person or group of persons and does not include an offer of units made through a public issue;"*

*14(2) If the InvIT raises funds by way of private placement-*

*(a) it shall do it through a placement memorandum;*

*(b) from institutional investors and body corporate only, whether Indian or foreign: .... "*

4.2. InvIT Regulations provide for initial issuance of units by InvITs through public offer or private placement. While public offer of units is open to all categories of investors, in case of private placement, there are restrictions in terms of the category of investors and the number of investors, etc.

4.3. As per regulation 2(1)(zoa) of InvIT Regulations, "preferential issue" means an issue of units by a listed InvIT to any select person or group of persons on a private placement basis. In regulation 14(2) of InvIT Regulations, the term used is "private placement" which is the basis on which preferential issue is made. In this regard, SEBI has issued a Circular dated November 27, 2019 detailing the guidelines for preferential issue of units and institutional placement of units by a listed InvIT.



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- 4.4. Even though the Preferential Issue Guidelines are silent on aspect of issuance of units by an InvIT on private placement basis to individuals, in terms of Regulation 14(2) of InvIT Regulations, an InvIT may raise funds on private placement basis from Institutional Investors and Body Corporates only. Therefore, an offer and allotment by InvIT on private placement basis, whether initial or further, can be made only to institutional investor and body corporates.
- 4.5. Vide your aforesaid letter, you have requested for confidentiality in respect of your application. Accordingly, it has been decided that the interpretive letter issued to you in this matter will not be made public for a period of 90 days from the date of issuance of this letter.
- 4.6. The above position is based on the information furnished in the letter under reference. Different facts or conditions might lead to different results. Further, this letter does not express a decision of the Board on the question referred.
- 4.7. You may also note that the above position/view is expressed only with respect to the clarifications sought in your letter under reference with respect to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 and circular issued thereunder as referred above and does not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or the laws administered by any other authority.

Yours faithfully

  
Deena Venu Sarangadharan