

Frequently Asked Questions on Registration and Initial offer of units by Infrastructure Investment Trusts (“InvITs”)

***Disclaimer:** These FAQs are prepared with a view to guide market participants on SEBI (Infrastructure Investment Trusts) Regulations, 2014 (“InvIT Regulations”). For full particulars of laws governing the Infrastructure Investment Trusts (InvITs), please refer to the Acts/Regulations/Guidelines/Circulars etc. appearing under the Legal Framework Section of SEBI website i.e. www.sebi.gov.in. Any queries about the InvIT Regulations can be addressed to the Department of Debt and Hybrid Securities, SEBI.*

REGISTRATION

1. What is the procedure of obtaining registration as a InvIT from SEBI?

In order to obtain registration as InvIT, the sponsor of the proposed InvIT needs to apply for registration with SEBI. The application needs to be made on SEBI Intermediary Portal (SI Portal) at the web address <https://siportal.sebi.gov.in>.

2. What is the procedure of making an application on SI Portal?

An applicant for InvIT registration needs to pay the application fees through the Self-Registration tab in the SI Portal. User manual for the same is available on home page of the SI Portal. Once the payment is confirmed, the applicant will receive a login id and password. Using the same, the applicant can login to the registration tab and make an application for registration.

3. What are the information/documents required for registration?

The applicant needs to submit the information required as per Schedule II of the InvIT Regulations. In addition, the applicant is required to submit necessary documents as prescribed under Schedule II of the InvIT Regulations. SEBI may require the applicant to furnish clarification or information in support of the application. Such documents also need to be submitted by the applicant.

4. What are the main requirements for registration as a InvIT?

The eligibility requirements for InvITs and parties to the InvITs are provided under InvIT Regulations. The InvIT and parties to the InvIT are required to satisfy these criteria at all times. Some of the major eligibility conditions are as follows:

- (a) The trust deed is duly registered in India under the provisions of the Registration Act, 1908
- (b) The trust deed has its main objective as undertaking activity of InvIT in accordance with InvIT Regulations
- (c) The responsibilities of the trustee, as prescribed under InvIT Regulations, have been included in the trust deed
- (d) Sponsor, Investment Manager and Trustee have been designated and are separate entities
- (e) No unit holder enjoys superior voting or any other rights over another unit holder and there is only a single class of units
- (f) The parties to the InvIT are fit and proper persons

Requirements for Trustee

- (a) It is registered with SEBI as a Debenture Trustee
- (b) It is not an associate of the sponsor or the Investment Manager

Requirements for Sponsor(s)

- (a) It has a net worth/net-tangible assets of not less than INR 100 crores
- (b) It has a sound track record in development of infrastructure or fund management in the infrastructure sector

Requirements for Investment Manager (IM)

- (a) It has a net worth/net-tangible assets of not less than INR 10 crores
- (b) It has not less than five years of experience in fund management or advisory services or development in the infrastructure sector, or the combined experience of its directors/partners/employees in fund management or advisory services or development in the infrastructure sector is not less than 30 years
- (c) It has not less than two employees with at least 5 years' experience in fund management or advisory services or development in the infrastructure sector
- (d) It has not less than one employee with at least 5 years' experience in the relevant sub-sector(s) in which the InvIT has invested or proposes to invest

- (e) Not less than half of its directors/members of the governing board are independent directors
- (f) It has entered into an investment management agreement with the trustee

5. Is there any application fee to be paid by the InvIT?

At the time of making application on SI Portal, an application fee of INR 1 lakh is required to be paid by the applicant.

6. Is there any registration fee to be paid by the InvIT?

On being satisfied that the applicant fulfils the requirements specified for registration of InvIT, an intimation is sent by SEBI to the applicant through SI Portal. On receipt of the intimation the applicant is required to pay a registration fee of INR 10 lakhs for grant of registration. The registration fee charged is one-time fee only and there is no renewal fee.

7. Is there a need to appoint a compliance officer?

InvIT Regulations require a compliance officer to be appointed by the InvIT. The details of the compliance officer are required to be provided at the time of making the application for registration.

8. Can a InvIT apply for in-principle approval?

InvIT Regulations provide for grant of in-principle approval in case any requirements specified for registration are not met by the applicant at the time of making application. The applicant can make a request for grant of in-principle approval at the time of making application. In-principle approval is generally granted for a period of six months within which the applicant is required to comply with the requirements for registration and submit necessary documentation for the same with SEBI. However, final registration is granted only after satisfaction of all requirements specified for registration.

9. How long does the Certificate of Registration remain valid?

A registered InvIT is required to make initial offer of its units within three years from the date of registration failing which it is required to surrender its certificate of registration. If an initial offer is made within the prescribed timelines, the registration is valid till it is surrendered by the InvIT or revoked by SEBI.

10. Are physical documents that have been uploaded as scanned copies on SI Portal required to be submitted to SEBI?

Processing of the application for registration starts based on the scanned copies of documents uploaded with the application in SI portal. However, the applicant also needs to send physical documents to SEBI and ensure that all relevant documents on the online application for registration in the SI Portal have been uploaded.

11. If an applicant does not wish to pursue the registration application, what is the procedure for withdrawal?

The applicant can apply for withdrawal of application for registration on SI Portal. Post necessary approvals, the same shall be permitted through SI Portal.

12. Where can an applicant check the status of its application?

The applicant can check the status of his application by logging on the SI Portal through its valid credentials.

INITIAL OFFER OF UNITS

13. What is an “initial offer” of units by an InvIT?

“Initial offer” of units is the first offer of units made by an InvIT to raise funds. An InvIT can make an initial offer of units, whereby the InvIT offers units to eligible investors through either (i) a public offer, or (ii) a private placement of units of InvIT.

14. What are the conditions to be satisfied for initial offer of units by an InvIT?

An InvIT is permitted to raise funds through an initial offer of units provided that –

- (a) The InvIT is registered with SEBI
- (b) the value of InvIT assets is not less than INR 500 crores
- (c) the size of the initial offer is not less than INR 250 crores

INITIAL PUBLIC OFFER OF UNITS BY AN InvIT

15. What is an “initial public offer” of units by an InvIT?

An “initial public offer” means the first offer of units of an InvIT to the public for subscription and includes an offer for sale of the InvIT units by an existing unit holder to the public.

16. Which InvITs are allowed to make an initial public offer?

InvITs which raise funds by way of a public issue, in terms of Regulation 14(4) of InvIT Regulations are permitted to raise funds through a public offer of units.

17. Who can participate in an initial public offer of units by an InvIT?

All categories of investors are permitted to participate in an initial public offer of units by a public InvIT.

18. What is a draft offer document?

The term "draft offer document" refers to the draft of the offer document filed with SEBI and designated stock exchange(s).

19. What is an offer document?

The term "offer document" refers to document(s) described or issued as an offer document including any notice, circular, advertisement or other document inviting offers through a public issue for the subscription or purchase of units of the InvIT. An offer document is filed with SEBI and designated stock exchange(s) for an initial public offer, follow-on offer, or a letter of offer in case of rights issue.

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.

20. What is final offer document?

The term "final offer document" refers to the version of the offer document filed with SEBI and designated stock exchanges including details with respect to pricing, allotment etc. upon completion of the issue.

21. Where does the InvIT file the draft offer document, offer document and final offer document?

The draft offer document, offer document and final offer document are required to be filed with SEBI and designated stock exchange(s).

22. Whether there is any requirement to seek public comments on the draft offer document?

Yes, the draft offer document filed with SEBI and designated stock exchange is required to be made public by hosting the same on the websites of SEBI,

designated stock exchange(s), InvIT, and merchant bankers associated with the issue for seeking public comments for a period of at least 21 days from the date of filing the draft offer document with exchange.

23. Whether there is any requirement to seek in-principle approval from stock exchange?

Yes, the issuer i.e. InvIT is required to make an application to one or more recognized stock exchange for in-principle approval for listing of units issued through the proposed initial public offer.

24. Please provide the list of intermediaries to be appointed for a public issue?

The Investment Manager, on behalf of the InvIT, is required to appoint one or more SEBI registered merchant bankers, at least one of whom is required to be the lead merchant banker. The issuer is also required to appoint other intermediaries such as custodian, registrar and transfer agent etc. in consultation with the lead merchant banker, to carry out the obligations relating to the issue.

25. What disclosures are required to be made in the offer document?

Disclosures specified under Schedule III of InvIT Regulations are required to be included in the offer document.

26. What is the time taken to issue observation by SEBI post filing of draft offer document?

SEBI 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 SEBI; or
 - ii. the date of receipt of clarification or information from any regulator or agency, where SEBI 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 SEBI has sought any clarification or additional information from them;

27. What should be done on either issuance of observations by SEBI or on expiry of the period specified above?

The lead manager is required to submit the following documents to SEBI:

- (a) If SEBI has issued observations or suggested any changes then a statement has to be made certifying that all changes, suggestion and observations made by SEBI have been incorporated in the offer document.
- (b) Due diligence certificate in the format specified under Form B of Annexure I to SEBI Circular No. CIR/IMD/DF/55/2016 dated May 11, 2016.

28. What are the provisions regarding advertisements relating to the public issue of units by an InvIT?

After filing the offer document with SEBI, the merchant banker is required to, make a pre-issue advertisement on the website of the sponsor, investment manager and stock exchanges. The merchant banker may also issue such pre-issue advertisement in any newspaper and on the website of the InvIT, if applicable.

29. Are there any reservations in allotment of units for different categories of investors?

Yes, the allocation in the public issue of units is made in the following manner:

- (a) Not more than 75% to institutional investors
- (b) Not less than 25% to other investors

In case of under-subscription in any category, the unsubscribed portion can be allotted to applicants in the other category.

30. How can an investor make an application for subscription in initial public offer?

An eligible investor may apply for an initial offer of units through the application form available on the websites of designated Stock Exchange(s) during the period

for which the public issue is kept open. Such application and bidding (other than for Anchor Investors) is required to be made through the ASBA process only.

31. What is the time period for listing after allotment of units in an initial public offer?

The allotted units are required to be listed within 6 working days from the issue closing date.

INITIAL OFFER THROUGH PRIVATE PLACEMENT OF UNITS BY AN InvIT

32. What is a private placement of units?

A private placement of units refers to 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.

33. Which InvITs are allowed to issue units through a private placement?

InvITs which raise funds, as specified under Regulation 14(2) of InvIT Regulations, are required to raise funds by way of a private placement through a placement memorandum filed with SEBI.

34. Who can subscribe to units being offered in an initial offer on a private placement basis by an InvIT?

Institutional investors and body corporates, both Indian and foreign are permitted to participate in an initial offer of units through a private placement made by a private InvIT. However, in case of foreign investors, such investment is subject to guidelines as may be specified by Reserve Bank of India and the central government from time to time.

35. What is a draft placement memorandum?

The term "draft placement memorandum" refers to the draft of the placement memorandum filed with SEBI.

36. What is a placement memorandum?

The term "placement memorandum" refers to any document through which private placement of units of the InvIT is made to eligible investors.

37. What is final placement memorandum?

The term “final placement memorandum” refers to the version of the placement memorandum filed with SEBI and designated stock exchange(s) including details with respect to pricing, allotment etc. upon completion of the issue.

38. Whether there is any requirement to seek observations on the draft placement memorandum?

Yes, for InvITs whose units are proposed to be listed, SEBI may issue observations, if any, on the draft placement memorandum within 15 working days from the later of the following dates:

- i) the date of receipt of the draft placement memorandum by SEBI; or
- ii) the date of receipt of satisfactory reply from the issuer and/or merchant banker to the issue, where SEBI 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 SEBI 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).

39. Whether there is any requirement to seek in-principle approval from stock exchange?

Yes, for InvIT units proposed to be listed, the issuer i.e. InvIT is required to make an application to one or more recognized stock exchange for in-principle approval for listing of units proposed to be issued.

40. Please provide the list of intermediaries to be appointed for a private placement of units?

For private placement of units by InvITs, whose units are proposed to be listed, the Investment Manager, on behalf of the InvIT is required to appoint a merchant bankers registered with SEBI. The issuer may appoint other intermediaries in consultation with the lead merchant banker, to carry out the obligations relating to the issue.

Further, for InvITs whose units are not proposed to be listed, the investment manager is responsible for all activities pertaining to the issue of units including filing of placement memorandum with SEBI and dealing with all matters relating to the allotment of units to the unit holders.

41. What disclosures are required to be made in the placement memorandum?

Disclosures specified under Schedule III of the InvIT Regulations are required to be included in the placement memorandum.

42. Will SEBI answers my queries pertaining to primary market?

The “Contact us” section on the SEBI website gives details of the contact name, address, phone number, etc. for any investor to communicate his/her complaints or for assistance. However, if the queries are legal in nature, they may be referred to SEBI under the SEBI (Informal Guidance) Scheme, 2003 as available at <http://www.sebi.gov.in/sebiweb/home/list/1/5/0/0/Guidelines>.

43. How can investors redress their complaints against InvITs issuing units or any other intermediaries involved in the allotment of InvIT units?

Investors should first approach the concerned issuers/InvITs with their complaint. If the complaint remains unresolved, the investors may approach SEBI for facilitating redressal of their complaints. SEBI has a web based centralized grievance redress system called SEBI Complaint Redress System (SCORES) available at <http://scores.gov.in> where investors can lodge their complaints against InvITs or any other intermediaries involved in the allotment of InvIT units.