

## Amendments to SEBI (Real Estate Investment Trusts) Regulations, 2014

### 1. Objective

1.1. This Board Memorandum proposes amendments to the SEBI (Real Estate Investment Trusts) Regulations, 2014 (hereinafter referred to as "REIT Regulations") on reducing the minimum holding requirement of units by sponsor(s) and sponsor group(s) of the total outstanding units of the Real Estate Investment Trust (REIT) on post-initial offer basis and seeks approval of the Board for the same.

### 2. Background

2.1. SEBI notified REIT Regulations on September 26, 2014. REITs are set up as business trust and registered with SEBI. It has parties such as Trustee, Sponsor(s) and Manager. The trustee of a REIT is a SEBI registered debenture trustee who is not an associate of the Sponsor. The Trustee generally has an overseeing role in the activity of the REIT and the manager assume operational responsibilities. It has at least half of its directors in case of a company or members of the governing board in case of an LLP as independent.

2.2. The details of REITs which have registered and raised funds (as on July 31, 2022) are as follows:

Table 1

SI No	Name of entity	Registration Date	Listing date	Funds raised (INR Cr.)
1.	Embassy Office Parks REIT	03/08/2017	01/04/2019	10,750
2.	Mindspace Business Park REIT	10/12/2019	07/08/2020	4,500
3.	Brookfield India Real Estate Trust	15/09/2020	03/02/2021	4,750

2.3. With respect to minimum unit holding requirement by the sponsor, SEBI REIT Regulations initially provided for the following:

- 2.3.1. REIT can have maximum three sponsors and each sponsor shall not hold less than five percent of the number of units of the REIT on post-initial offer basis at all times.
- 2.3.2. Sponsor shall collectively hold minimum of twenty five percent of the units of REIT for a period of not less than three years from the date of listing of units on post-initial offer basis.
- 2.3.3. Sponsor shall collectively hold minimum of fifteen percent of outstanding units at all times.

2.4. In November 30, 2016, REIT Regulations were amended to introduce the concept of sponsor group(s) wherein "sponsor group(s)" were also included along with sponsor(s) with regard to aforementioned minimum unit holding requirement under REIT Regulations. Further, the maximum limit of three sponsors in a REIT was also removed from REIT Regulations.

2.5. Vide Board amendment dated June 16, 2020, the requirement of holding fifteen percent of outstanding units of REIT on perpetual basis by sponsor(s) and sponsor group(s) was removed from REIT Regulations. The following rationale was provided for removal of perpetual unit holding in REIT Regulations:

- 2.5.1. While there is requirement of sponsor(s) and sponsor group(s) holding fifteen percent of all units of REIT on perpetual basis, the SEBI (Infrastructure Investment Trusts) Regulations, 2014 (hereinafter referred to as "InvIT Regulations") prescribes unit holding requirement for sponsor only for the initial period of three years. After three years, there is no requirement of mandatory holding of units by sponsor of an InvIT.
- 2.5.2. The requirement to hold fifteen percent of units in perpetuity is quite onerous on Sponsor as the sponsor is perforce required to contribute in every subsequent issue of units by the REIT to maintain its unit holding as per the prescribed threshold which may not be feasible especially in case the REIT decides to acquire third-party assets.

**3. Current Regulatory Requirement :**

3.1. The current regulatory requirement in SEBI REIT Regulations (Regulation 11(3)(a)) with respect to, the minimum unit holding by the sponsor or sponsor group are as follows:

- 3.1.1. Sponsor(s) and sponsor group(s) shall collectively hold minimum of twenty five percent of the units of REIT for a period of not less than three years from the date of listing of units on post-initial offer basis.
- 3.1.2. Any holding of the sponsor(s) and sponsor group(s) exceeding twenty five percent of the units of REIT shall be held for a period of one year from the date of listing of such units.

**4. Unitholding pattern of the sponsor(s) and sponsor group(s)**

4.1. The unitholding pattern of the sponsor(s) and sponsor group(s) of the REITs on the day of listing and as on July 31, 2022 is given below:

Table 2

<b>Sponsor(s) and sponsor group(s) unit holding</b>			
<b>SI No</b>	<b>Name of entity</b>	<b>As on date of listing</b>	<b>As on July 31, 2022</b>
1.	Embassy Office Parks REIT	70%	44%
2.	Mindspace Business Park REIT	63%	63%
3.	Brookfield India Real Estate Trust	54%	54%

**5. Reduction in minimum holding requirement of units of REIT by Sponsor(s) and Sponsor Group(s): Need for review**

5.1. The requirement for sponsor(s) to hold twenty five percent of units at REIT on a post-issue basis, may limit the monetization for sponsor(s) and reduce release of capital for sponsor(s) The reduction of minimum unit holding requirement will enhance the monetization potential for the sponsor and free up capital which maybe used for further investment.

5.2. Regulation 12(3) of InvIT Regulations provides for the minimum unit holding requirement of fifteen percent by the sponsor(s) for a period of three years subject to the sponsor being made additionally responsible for all acts, omissions and representations or covenants of the InvIT related to formation of InvIT, sale/ transfer of assets/SPV to the InvIT, InvIT/the Trustee having recourse against the Sponsor for any breach and the sponsor or associate of the sponsor being the project manager for a minimum period of three years from the date of listing of InvIT .

5.3. SEBI InvIT Regulations mandates appointment of a Project Manager in terms of Project Management Agreement in order to undertake the operations and maintenance of the assets of the InvITs such as roads, power transmission, etc. However, in case of a REIT, the operations and maintenance of the real estate asset is undertaken by the Manager of the REIT. Hence, there is no requirement of a Project Manager in REIT.

5.4. In view of the same, it is felt that the regulatory provisions regarding the minimum unit holding requirement by sponsor and sponsor group may be reduced to fifteen percent. Additionally, the following obligations may be cast on the sponsor and the sponsor group(s) of the REIT, to safeguard the interest of the unit holders, so that the REIT will have enabling provision for recourse against the sponsor.

5.4.1. sponsor(s) and the sponsor group(s) shall continue to be liable to the REIT, trustees and unit holders for all acts of commission or omission, representation or covenants related to the formation of the REIT and the sale or transfer of assets or holdco or SPV to the REIT

## **6. Consultation:**

6.1. SEBI Hybrid Securities Advisory Committee in its meeting dated July 19, 2022 deliberated the agenda item on reducing the sponsor holding for REITs. The members unanimously agreed with the proposal.

## **7. Changes proposed:**

7.1. It is proposed that the Regulation 11(3) and 11(4) of REIT Regulations be amended and read as under:

*“(3) The sponsor(s) and sponsor group(s) shall collectively hold a minimum of fifteen percent of the total units of the REIT for a period of at least three years from the date of listing of such units pursuant to initial offer on a post-issue basis:*

*Provided that any holding of the sponsor(s) and sponsor group(s) exceeding the minimum holding, shall be held for a period of at least one year from the date of listing of such units.”*

*“(4) Notwithstanding anything contained in any contract or agreement, the sponsor(s) and the sponsor group(s) shall continue to be liable to the REIT, trustees and unit holders for all acts of commission or omission, representation or covenants related to the formation of the REIT and the sale or transfer of assets or holdco or SPV to the REIT.”*

## **8. Proposal to the Board**

8.1. The Board is requested to

8.1.1. consider and approve the proposals, as detailed under paragraph no. 7 above.

8.1.2. authorize the Chairperson to take necessary steps to implement the proposals including notification of amendments, wherever necessary with consequential and appropriate changes, as may be required.

## **Draft Notification**

Amendment shall be notified after following the due process