

M&A Hotline

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THE INVITATION TO REFORM: SEBI'S NEW INVIT AMENDMENT, DECODED

BACKGROUND

The Securities and Exchange Board of India (“SEBI”) officially notified amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 on April 2, 2025¹ (“**2025 Amendment**”). These amendments, shaped by feedback from a public consultation issued on October 30, 2024², and recommendations from SEBI's Hybrid Securities Advisory Committee³ (HySAC), were approved during a SEBI board meeting on December 18, 2024.

The changes mark a pivotal shift in areas such as sponsor lock-in flexibility, investment avenues, governance norms, trustee responsibilities, and disclosure requirements. This hotline presents a comparative analysis of the key amendments, highlighting the evolution from the earlier regulatory stance to the newly established framework.

KEY CHANGES

I. Regulation 12 (5) – Transfer of Locked in Units

Under the erstwhile regime, units held by the sponsor or members of the sponsor group of an Infrastructure Investment Trusts (“**InvITs**”) that were subject to a regulatory lock-in were entirely non-transferable during the prescribed duration. This rigid position applied uniformly, irrespective of whether the transfer occurred within the same sponsor group or formed part of a corporate reorganization. Additionally, there was no provision for the transfer of locked-in units in cases of a change in sponsor or a transition to a self-sponsored investment manager structure, leading to significant constraints in ownership flexibility and succession planning.

Under the 2025 Amendment, intra-group transfers of locked-in units are now expressly permitted, provided that the lock-in obligation continues unaltered with the transferee. In effect, while the beneficial holder may change within the group, the regulatory restriction on alienation persists until the original lock-in period lapses. Moreover, the 2025 Amendment allows the transfer of locked-in units to a new sponsor or a self-sponsored investment manager, subject to such entity meeting the eligibility criteria applicable to sponsors.

II. Regulation 18 – Investment Conditions

Earlier, InvITs were required to invest at least 80% (eighty percent) of their assets in completed and revenue-generating infrastructure assets, with the remaining 20% (twenty percent) permitted for deployment in a narrow class of instruments including liquid mutual funds, government securities, and select debt products. The framework did not recognize investment in unlisted equity nor allowed the use of derivatives to hedge interest rate exposures, thereby limiting the ability of InvITs to manage operational liquidity or financial risks.

In contrast, the 2025 Amendment expands the utility of the 20% (twenty percent) discretionary investment category. InvITs are now permitted to invest in unlisted equity shares of entities engaged in providing project management or incidental services, subject to the condition that such entities serve only the InvIT and are wholly owned by the InvIT, its holding company or any special purpose vehicles. The 2025 Amendment also introduces interest rate derivatives, such as swaps, futures, and forward rate agreements, as permissible instruments for hedging interest rate risk, provided such exposure arises from borrowings or refinancing obligations. These instruments must not be used for speculative purposes and must be reported transparently.

III. Other Key Amendments

The governance gaps around board vacancies, trustee responsibilities, and disclosure standards have now been addressed holistically. Earlier, while board composition norms were prescribed, no deadlines existed for filling board vacancies. The 2025 Amendment mandates filling vacancies due to expiry before term-end, and within 3 (three) months for others, ensuring continuity in governance.

Similarly, trustees were previously guided only by broad fiduciary expectations. The newly inserted Regulation 9(23) and Schedule X provide a principle-based code of conduct and concrete duties—including annual site visits, oversight of leverage and distribution compliance, and direct engagement with management. Trustees are also allowed to appoint consultants for 18 (eighteen) months to help transition into this expanded role.

Financial disclosures too have been standardized through SEBI's May 6, 2025, circular under Regulation 23. InvITs must now publish quarterly and annual results in a uniform format, with consolidated and standalone figures, audited or reviewed by statutory auditors.

CONCLUSION

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While the 2025 Amendment was officially notified earlier this year, its practical significance is only now being felt across the InvIT ecosystem. As InvITs recalibrate their structures, governance models, and investment strategies to align with the revised framework, stakeholders will have to navigate both operational and strategic transitions going forward.

SEBI's circular dated May 6, 2025, issued under Regulation 23⁴, has further crystallized financial disclosure obligations, and InvITs are expected to release their first quarterly reports under the new format in July 2025, making this a crucial moment for compliance preparedness and investor communication strategy.

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¹SEBI Circular No. SEBI/LAD-NRO/GN/2025/240, available at https://www.sebi.gov.in/legal/regulations/apr-2025/securities-and-exchange-board-of-india-infrastructure-investment-trusts-amendment-regulations-2025_93279.html.

²SEBI Consultation Paper on Proposals for REIT and InvITs, available at: https://www.sebi.gov.in/reports-and-statistics/reports/oct-2024/consultation-paper-on-proposals-for-reits-and-invits_88158.html.

³*ibid.*

⁴SEBI Circular No. SEBI/HO/DDHS-PoD1/P/CIR/2025/65 dated May 6, 2025 – Disclosure of Financial Results by InvITs.

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