

SECURITIES AND EXCHANGE BOARD OF INDIA
NOTIFICATION

Mumbai, the 16th August, 2023

SECURITIES AND EXCHANGE BOARD OF INDIA (REAL ESTATE INVESTMENT TRUSTS) (SECOND AMENDMENT) REGULATIONS, 2023

No. SEBI/LAD-NRO/GN/2023/144.—In exercise of the powers conferred under 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) (Second Amendment) Regulations, 2023.
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, sub-regulation (1), -
 - i. the existing clause (qa) shall be renumbered as clause (qai);
 - ii. after clause (q), the following new clause shall be inserted, namely,-

“(qa) “group entities of the Manager” means:

 - (i) entities or person(s) which are controlled by the Manager;
 - (ii) entities or person(s) who control the Manager; or
 - (iii) entities or person(s) controlled by entities or person(s) specified in sub-clause (ii).”
 - iii. the existing clause (qai) shall be renumbered as clause (qb);
 - iv. the existing clause (qb) shall be renumbered as clause (qc);
 - v. the existing clause (zra) shall be renumbered as clause (zrb);
 - vi. after clause (zr), the following clause shall be inserted, namely,-

“(zra) “Self-Sponsored Manager” means the Manager of a REIT who has dual responsibilities of both the Manager as well as the sponsor.”
 - II. in regulation 4, sub-regulation (2), in clause (g), -
 - a. the symbol “;” after the word “units” in the non-obstante clause shall be replaced with the symbol “:”;
 - b. the following provisos shall be inserted after the existing non-obstante clause, namely, -

“Provided that unitholders holding not less than ten percent of the total outstanding units of the REIT, either individually or collectively, shall be entitled to nominate one director on the board of directors of the Manager, in the manner as may be specified by the Board:

Provided further that the director so nominated shall recuse from voting on any transaction in which such nominee director or associate of such nominee director or the unitholder who nominated such nominee director or the associate of such unitholder is a party:

Provided further that any unitholder holding not less than ten percent of the total outstanding units of the REIT shall comply with the stewardship code specified in Schedule IX of these regulations.”
 - III. regulation 7A shall be omitted.

IV. in regulation 11, -

- i. the existing sub-regulation (3) shall be substituted by the following sub-regulation namely, -

“(3) The sponsor(s) and sponsor group(s) shall collectively hold not less than -

- (i) fifteen percent of the total units of the REIT, for three years from the date of listing of units in the initial offer:

Provided that any holding by the sponsor(s) and sponsor group(s) exceeding fifteen percent shall be held for a period of not less than one year from the date of listing of units issued in the initial offer;

- (ii) five percent of the total units of the REIT, from the beginning of fourth year and till the end of fifth year from the date of listing of the units issued in the initial offer;

- (iii) three percent of the total units of the REIT, from the beginning of sixth year and till the end of tenth year from the date of listing of the units issued in the initial offer;

- (iv) two percent of the total units of the REIT, from the beginning of eleventh year and till the end of twentieth year from the date of listing of the units issued in the initial offer;

- (v) one percent of the total units of the REIT, after completion of the twentieth year from the date of listing of units issued in the initial offer:

Provided that the maximum value of the units to be held by the sponsor(s) and sponsor group(s) for compliance with clauses (ii) to (v) of this sub-regulation shall not exceed five hundred crore rupees or such other value as may be decided by the Board from time to time and such valuation shall be based on the latest available net asset value of the REIT:

Provided further that an assessment of compliance of requirements under clauses (ii) to (v) of this sub-regulation shall be done at the time of each fresh issuance of units and at the beginning of change in threshold of the percentage for minimum unitholding requirement as specified in this sub-regulation:

Provided further that for REITs that have already issued units pursuant to an initial offer as on the date of coming into effect of the Securities and Exchange Board of India Securities and Exchange Board of India (Real Estate Investment Trusts) (Second Amendment) Regulations, 2023, the provisions contained in clauses (i) to (v) of this sub-regulation shall be applicable only for the additional units issued by the REIT after such date and the units that are locked in at the time of initial offer shall continue to be locked in till the completion of three years from the date of listing of units in such initial offer.”

- ii. after sub-regulation (3), the following sub-regulation shall be inserted namely, -

“(3A) The units required to be held in terms of sub-regulation (3) shall be locked in and shall not be encumbered:

Notwithstanding the above, any encumbrance created on units held to comply with the minimum unit holding requirement applicable before the date of coming into effect of the Securities and Exchange Board of India (Real Estate Investment Trusts) (Second Amendment) Regulations, 2023, may continue if the encumbrance exist on such date.”

V. in regulation 22, -

- i. in sub-regulation (5), clause (fa) shall be omitted;

- ii. in sub-regulation (8), -

- a) after the words “inducted sponsor” and before the symbols “,-”, the words and symbol “or conversion to Self-Sponsored Manager” shall be inserted;

- b) in clause (b), -

- a. the words “if such change does not receive the required approval” shall be substituted with the words “if the required approval is not received”;

- b. in sub-clause (ii), in the Explanation, the words “with or without” shall be substituted by the word “or”;

- c. after sub-clause (ii), the following sub-clause shall be inserted, namely, -
- “(iii) in case of conversion to Self-Sponsored Manager, the Manager shall provide the dissenting unit holders an option to exit by buying their units in the manner specified by the Board.”
- iii. after sub-regulation (8), the following sub-regulation shall be inserted namely, -
- “(9) The existing sponsor(s) proposing to disassociate as sponsor(s) by seeking to convert the Manager to Self-Sponsored Manager shall comply with the following conditions:
- (i) the REIT has been listed for a period of at least five years;
 - (ii) the REIT has undertaken not less than twelve distributions on a continuous basis and has complied with the distribution norms as per these Regulations in the preceding five years;
 - (iii) the REIT is rated AAA by a registered credit rating agency for a continuous period of five years immediately preceding exit of the sponsor;
 - (iv) during the period of preceding five years, the REIT has not breached, at any time, the maximum leverage thresholds specified in these regulations;
 - (v) the Manager is meeting the net worth criteria for the sponsor as specified in these regulations;
 - (vi) the minimum unitholding requirement applicable to sponsor(s) and sponsor group(s) shall be complied with, on or after the date of conversion of the Manager to Self-Sponsored Manager, by the Manager, shareholders of the Manager and/or group entities of Manager:
 Explanation: Manager, shareholders of the Manager and/or group entities of Manager may acquire units of the REIT for the purpose of compliance of the above condition.
 - (vii) the sponsor(s) or its associate(s) do not own or control the Manager of the REIT on or after the date of conversion of the Manager to Self-Sponsored Manager;
 - (viii) the Sponsor has not transferred / sold assets to the REIT in the last three years and no assets/ projects shall be acquired by the REIT from the outgoing sponsor(s) for a period of one year from the date of conversion to Self-Sponsored Manager;
 - (ix) at least one of the sponsor(s) proposing to disassociate should have been a sponsor of the REIT for a minimum period of five years;
 - (x) the REIT shall not have any under-construction properties acquired from the sponsor that have not commenced commercial operations;
 - (xi) unitholders approval in terms of sub-regulation (8) of this regulation and consent of the Trustee has been obtained for conversion to Self-Sponsored Manager;
 - (xii) such other condition as may be specified by the Board.”
- VI. after Schedule VIII, the following Schedule shall be inserted namely, -

“Schedule IX : STEWARDSHIP CODE

[See Regulation 4(2)(g)]

The following principles of stewardship code shall be complied with by any unitholder holding not less than ten percent of the total outstanding units of the REIT:

1. They must act in the best interests of the REIT and its unitholders as a whole;
2. They should formulate a comprehensive policy on the discharge of their stewardship responsibilities, review and update the same periodically;
3. They should have a policy to manage issues of conflict of interest while fulfilling their stewardship responsibilities;
4. They should periodically monitor the REIT and its investee entities viz. HoldCo(s) and SPV(s);
5. They should have a policy on intervention in the REIT and its HoldCo(s) and SPV(s);
6. They should have a policy on voting.”

BABITHA RAYUDU, Executive Director

[ADVT.-III/4/Exty./361/2023-24]

Footnotes:

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 by the –
 - a. Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2016, vide No. SEBI/LAD/NRO/GN/2016-17/022, with effect from November 30, 2016;
 - b. 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.
 - c. Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2018, vide No. SEBI/LAD-NRO/GN/2018/06, with effect from April 10, 2018.
 - d. Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2019, vide No. SEBI/LAD-NRO/GN/2019/09, with effect from April 22, 2019.
 - e. Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2020, vide No. SEBI/LAD-NRO/GN/2020/06, with effect from March 02, 2020.
 - f. Securities and Exchange Board of India (Regulatory Sandbox) (Amendment) Regulations, 2020, vide No. SEBI/LAD-NRO/GN/2020/10, with effect from April 17, 2020.
 - g. Securities and Exchange Board of India (Real Estate Investment Trusts) (Second Amendment) Regulations, 2020, vide No. SEBI/LAD-NRO/GN/2020/16 with effect from June 16, 2020.
 - h. Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2021 vide No. SEBI/LAD-NRO/GN/2021/28 with effect from July 30, 2021.
 - i. Securities and Exchange Board of India (Regulatory Sandbox) (Amendment) Regulations, 2021 vide No. SEBI/LAD-NRO/GN/2021/30 with effect from August 03, 2021.
 - j. Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2022 vide No. SEBI/LAD-NRO/GN/2022/100 with effect from November 9, 2022.
 - k. Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations, 2023 vide No. LAD-NRO/GN/2023/123 with effect from February 14, 2023.
 - l. Securities and Exchange Board of India (Alternative Dispute Resolution Mechanism) (Amendment) Regulations, 2023 vide No. SEBI/LAD-NRO/GN/2023/137 with effect from July 4, 2023.