भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

CONSULTATION PAPER

DEPARTMENT OF DEBT AND HYBRID SECURITIES – POD II

CONSULTATION PAPER ON MEASURES TOWARDS EASE OF DOING BUSINESS FOR REITS AND InvITS

Feb 05, 2026

भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

Timeline to Respond

Comments on the Consultation paper (CP) may be sent by February 26, 2026

CONTENTS

1. OBJECTIVE AND BACKGROUND

1.1. The objective of this consultation paper is to seek comments / views / suggestions from the public on various ease of doing business measures related to Real Estate Investment Trusts ("REITs") and Infrastructure Investment Trusts ("InvITs").

1.2. The proposals made in the consultation paper are based on the inputs received from industry associations (i.e. the Indian REITs Association ["IRA"] and Bharat InvITs Association ["BIA"]) and recommendations of the Hybrid Securities Advisory Committee ("HYSAC").

1.3. The matters consulted in this paper are as under:

1. Continuing the investment in Special Purpose Vehicle post end of concession period (For InvITs)
2. Expanding the scope of investment in liquid mutual fund schemes by REITs and InvITs (For Both REITs and InvITs)
3. Alignment of investment conditions for Private InvIT with Public InvIT in relation to investment in Greenfield Projects. (For InvITs)
4. Expanding the scope of permitted use of fresh borrowings for InvITs where Net Borrowings exceeds 49% of the value of assets (For InvITs)

1.4. The detailed proposals related to aforementioned matters are mentioned in paragraphs 2 to 5 of this consultation paper.

2. CONTINUING THE INVESTMENT IN SPV POST END OF CONCESSION PERIOD (FOR InvITS)

2.1. BACKGROUND

2.1.1. As per the provisions of SEBI (Infrastructure Investment Trusts) Regulations, 2014 ("InvIT Regulations"), InvITs can hold infrastructure projects either directly or through underlying HoldCo and/or SPV. In case of end of the concession period or termination thereof, due to which the concession rights of the SPV in the underlying infrastructure project cease to exist, then in such event, InvIT may remain invested in that SPV which is not having any infrastructure project.

2.1.2. In this regard industry association have requested to clarify whether SPV of the InvIT, which does not have any infrastructure project after the end of concession rights of said SPV will still be qualified as an SPV in InvIT Regulations.

2.2. EXTANT REGULATORY PROVISION

2.2.1. Regulation 2(1)(zy) of the InvIT Regulations reads as under:

"SPV" or "special purpose vehicle" means any company or LLP, –

a. in which either the InvIT or the holdco holds or proposes to hold controlling interest and not less than fifty one per cent. of the equity share capital or interest:

Provided that in case of PPP projects where such acquiring or holding is disallowed by government or regulatory provisions under the concession agreement or such other agreement, this clause shall not apply and shall be subject to provisions under proviso to sub-regulation (3) of regulation 12

b. which holds not less than ninety per cent. of its assets directly in infrastructure projects and does not invest in other SPVs; and *c. which is not engaged in any other activity other than activities pertaining to and incidental to the underlying infrastructure projects.*

2.3. **REPRESENTATION RECEIVED FROM INDUSTRY ASSOCIATION**

2.3.1. Based on the extant legal provisions –

2.3.1.1. InvITs are only permitted to invest in the equity shares of (i) HoldCos; (ii) SPVs; and (iii) listed companies in the infrastructure sector.

2.3.1.2. the definition of 'HoldCo', provides that a HoldCo is a company or LLP in which the InvIT holds controlling interest and not less than 51% of the equity share capital or interest and which in turn has made investments in other SPV(s), which ultimately hold the infrastructure assets;

2.3.1.3. the definition of 'SPVs' provides that 90% of its assets are invested directly in infrastructure projects and is not engaged in any other activity other than activities pertaining to and incidental to the underlying infrastructure projects;

2.3.2. Upon the expiry of concession agreement or termination thereof, InvIT will continue to hold investment in SPVs which do not have 'eligible infrastructure project' or 'completed and revenue generating project'.

2.3.3. Commercially, the InvIT and/or HoldCo might not be able to divest its holding/interest in such SPV immediately on expiry or termination of concession agreement and therefore, the InvIT and/or HoldCo may continue to remain invested in such SPV. Practically, after the end of concession rights, the SPV will continue to fulfill its statutory/contractual obligations including income tax assessments, GST assessments, defending litigations against it, defect liability period under relevant concession agreement(s) and therefore, winding up or any corporate restructuring would not be feasible for the said SPV. The related expenditure (for such statutory/contractual obligations of SPV) will continue without income/cash inflow leading negative cash flows and therefore, adjustments in this regard for NDCF at Trust level.

2.3.4. In view of the foregoing and practical difficulties that may be faced by the InvITs, there is a need to clarify whether any entity, under the control of the InvIT (either held directly or through HoldCo), which ceases to hold any infrastructure project upon the expiry or termination of concession agreement, shall be considered as an 'SPV' and the same be construed accordingly under the InvIT Regulations and all the applicable notification(s), circular(s), guidance(s) issued thereunder.

2.4. CONSIDERATION OF PROPOSAL

2.4.1. As per the InvIT Regulations, 'SPV' means a company/LLP which holds 90% of its assets directly in infrastructure projects and is not engaged in any other activity other than activities pertaining to and incidental to the underlying infrastructure projects. Further, InvIT Regulations provide that InvITs are permitted to invest in companies or LLPs that qualify as HoldCos and/or SPVs.

2.4.2. Upon the expiration or termination of the concession agreement, the underlying infrastructure project in the SPV will revert back to the public concessioning authority and the SPV's interest in the infrastructure projects shall cease. Consequently, such entity may no longer satisfy the qualifying criteria of minimum 90% investment in infrastructure projects which is necessary to maintain its status as a SPV. However, the InvIT may have to continue to hold investment in such entities as such entities may continue to fulfill statutory/contractual obligations including income tax assessments, GST assessments, defending litigations against it, defect liability period under relevant concession agreement(s) and therefore, immediate winding up or any corporate restructuring might become difficult for the said entities.

2.5. **PROPOSALS**

2.5.1. To address such circumstances, it is proposed that the definition of SPV may be expanded to specifically enable InvITs to continue to hold those companies where concession agreements have either concluded or been terminated subsequent to their acquisition by the InvIT. In view of the same, Regulation 2(1)(zy) of the InvIT Regulations is proposed to be amended to add the following proviso in the definition of SPV –

"Provided that, in respect of a company or LLP holding PPP project, the conclusion or termination of the concession agreement with the public concessioning authority shall not affect the status as an SPV and such company or LLP, shall continue to be classified as an SPV, subject to fulfillment of the conditions specified by the Board."

2.5.2. The conditions referred in paragraph 2.5.1 are as under:

2.5.2.1. Investment Manager shall either exit such investment by way of sale/liquidation/winding-up of such entity, or acquire any new infrastructure project in such entity, within one year from -

(a) completion/termination of concession agreement, or

(b) conclusion of all pending claims/litigations, or

(c) completion of defect liability period,

whichever is later

2.5.2.2. Further, till the time investment in such SPV is held by the InvIT, adequate disclosures shall be made in the annual report of the InvIT including the following –

2.5.2.2.1. **InvIT Level**: Investment Manager shall disclose a detailed breakup of the value of investments (gross and net basis) in the SPV(s) wherein the concession period has ended/terminated.

2.5.2.2.2. **SPV Level:** Investment Manager shall provide additional disclosures pertaining to each SPV wherein the concession period has ended/terminated, which shall include the following information:

(a) Brief details of the project, date when the concession agreement ended, status of vesting certificate or any other document issued by the concessioning authority upon successful completion of handover of the project to the said authority.

(b) Assets and Liabilities of the SPV (including specific reserves, if any): Provide the nature and amount of respective carrying value of assets and liabilities (including specific reserves, if any) on broad/grouped basis as determined in the annual audited financial statements of the SPV.

(c) Contingent Liabilities: Details of Contingent Liabilities of the SPVs as set out in its annual audited financial statements.

(d) Debt Repayment: Brief details of outstanding debt of the SPV, if any, along with repayment schedule.

(e) Other Material Details: Other material details related to such SPV including details related to pending claims, pending litigations, pending assessments, pending statutory/contractual obligations, balance period of defect liability period, etc.

(f) Whether SPV has sufficient assets to meet its existing liabilities (including contingent liabilities). If not, how the Investment manager plans to meet such liabilities.

(g) Exit Strategy and Timeline: A clear plan of action detailing how and when the InvIT intends to exit its investment in the SPV or plans to acquire new infrastructure project, along with the brief details of steps taken so far and expected timeline for completion.

2.6. **RECOMMENDATION OF HYSAC**

2.6.1. The above proposals are made based on the recommendations of the HYSAC.

Consultation 1: Continuing the investment in SPVs post end of concession period (For InvITs)

Kindly provide your comments along with supporting rationale on the following proposals:

(a) Amendment in the definition of SPV to include those companies/LLPs wherein the concession period has ended or terminated and infrastructure asset cease to exist in such entity.

(b) Conditions proposed to be complied by the Investment Manager with regard to such investments.

(c) Disclosures proposed in the annual report of the InvIT for such investments.

3. *EXPANDING THE SCOPE OF INVESTMENT IN LIQUID MUTUAL FUND SCHEMES BY REITS AND INVITS (FOR BOTH REITS AND InvITS)*

3.1. BACKGROUND

3.1.1. Regulation 18 the REIT and InvIT Regulations contain the investment conditions applicable to REITs and InvIT and *inter-alia* provides units of liquid mutual funds schemes where the credit risk value is at least 12 and which falls under the Class A-I in the Potential Risk Class ("PRC") matrix as specified by SEBI as eligible investment for REITs and InvITs.

3.1.2. In this regard, it has been represented by IRA and BIA that there are very limited options in such schemes which restrict the investment opportunity for REITs and InvITs.

3.2. EXTANT REGULATORY PROVISION:

3.2.1. Regulation 18(5)(i) of the REIT Regulations states as under:

"Not more than twenty percent. of value of the REIT assets shall be invested in assets other than as provided in sub-regulation (4) and such other investment shall only be in,-
….
(i) units of liquid mutual funds schemes where the credit risk value is at least 12 and which falls under the Class A-I in the potential risk class matrix as specified by the Board."

3.2.2. Similar provision is stated in Regulation 18(5)(b)(vii) of the InvIT Regulations for investment by InvITs in liquid mutual fund schemes.

3.3. REPRESENTATION RECEIVED FROM INDUSTRY ASSOCIATIONS

3.3.1. Currently, among the top 15 liquid mutual fund schemes as per AUM, only 2 schemes qualify for a credit risk value of 12 and meet the Class A-I requirement.

3.3.2. Liquid mutual funds are primarily concentrated in the B-1 risk class (29 schemes; ₹4.96 lakh crore AUM), with limited presence in A-1 and none in C-1.

S. No.	PRC of Liquid Mutual Fund Scheme	Total no. of liquid mutual fund schemes	Total AUM of all liquid mutual fund schemes (Oct-25) (in cr.)
1	Class A-1	9	54,677
2	Class B-1	29	4,96,539
3	Class C-1	-	-
Total		38	5,51,216

3.3.3. Across the total 38 liquid mutual fund schemes in India, only 9 schemes qualify under the Class A-I criteria. Of these 9 schemes, 3 schemes have an AUM below ₹1,000 crores, which may pose additional risks due to insufficient scale. Restricting REITs and InvITs to invest in this limited set of schemes can lead to concentration risk, undermining the principles of diversification.

3.3.4. Allowing investment in schemes with a credit risk value of 10 or above will enable REITs and InvITs to diversify portfolios more effectively without compromising liquidity and safety.

3.3.5. Hence, to manage risks effectively, the IRA and BIA have proposed that investments should be permitted in liquid mutual fund schemes with a credit risk value of 10 or above in the PRC matrix, encompassing both Class A-I and Class B-I categories, instead of restricting investments to schemes with a credit risk value of 12 or above.

3.4. CONSIDERATION OF PROPOSAL

3.4.1. Paragraph 17.5 of Master Circular for Mutual Funds dated June 27, 2024 (“MF Master Circular) specifies provisions for Potential Risk Class matrix and *inter-alia* requires that all the debt mutual funds shall be classified in terms of a PRC matrix consisting of parameters based on maximum interest rate risk (measured by Macaulay Duration (MD) of the scheme) and maximum credit risk (measured by Credit Risk Value (CRV) of the scheme). Further, as per Table S.No. B titled "Debt Schemes" under Paragraph 2.6.1 of the MF Master Circular, a liquid mutual fund scheme is classified as a debt scheme as it is an open ended scheme which invest in debt and money market securities with maturity of up to 91 days only.

3.4.2. The PRC matrix for debt mutual funds is a 3 x 3 matrix with the following syntax for each matrix cell -

Max Credit Risk of scheme→	**Class A (CRV >=12)**	**Class B (CRV >=10)**	**Class C (CRV <10)**
Max Interest Rate Risk of the scheme ↓			
Class I: (MD<=1 year)	Relatively Low Interest Rate Risk and Relatively Low Credit Risk	Relatively Low interest rate risk and moderate Credit Risk	Relatively Low interest rate risk and Relatively High Credit Risk
Class II: (MD<=3 years)	Moderate interest rate risk and Relatively Low Credit Risk	Moderate interest rate risk and moderate Credit Risk	Moderate interest rate risk and Relatively High Credit Risk
Class III: Any Macaulay duration	Relatively High interest rate risk and Relatively Low Credit Risk	Relatively High interest rate risk and moderate Credit Risk	Relatively High interest rate risk and Relatively High Credit Risk

3.4.3. Further, paragraph 17.5.9 of the MF Master Circular inter-alia assigns specific Credit Risk Value for each credit rating of an investment instrument (e.g., a bond or debenture) in a debt fund's portfolio, which is reproduced as under -

Instrument Rating	*Credit Risk Value (CRV)*
G-Sec/SDL/Repo on G-sec/TREPS/Cash	*13*
AAA	*12*
AA+	*11*
AA	*10*
AA-	*9*
A+	*8*
A	*7*
A-	*6*
BBB+	*5*
BBB	*4*
BBB-	*3*
Unrated	*2*
Below investment grade	*1*

3.4.4. In regard to the suggestion of IRA and BIA to allow REITs and InvITs to invest in liquid mutual fund schemes with a credit risk value of 10 or above in the PRC matrix, encompassing both Class A-I and Class B-I categories, the same may be facilitated as Class B-I category (i.e. CRV of 10 and above) provides additional investment options for REITs and InvITs in the form of debt securities rated AA and above while still maintaining low to moderate credit risk and mitigating concentration risk.

3.5. **PROPOSAL**

3.5.1. It is proposed that REITs and InvITs may be allowed to invest in liquid mutual fund schemes with a credit risk value of 10 or above in the Potential Risk Class matrix, encompassing both Class A-I and Class B-I categories. Hence, Regulation 18(5)(i) of the REIT Regulations and Regulation 18(5)(b)(vii) of the InvIT Regulations are proposed to be amended as under:

"units of liquid mutual funds schemes where the credit risk value is at least 10 and which fall under the Class A-I or Class B-I in the potential risk class matrix as specified by the Board."

3.6. **RECOMMENDATION OF HYSAC**

3.6.1. The above proposals are made based on the recommendations of the HYSAC.

Consultation 2: Expanding the scope of investment in liquid mutual fund schemes by REITs and InvITs (For Both REITs and InvITs)

Kindly provide your comments along with supporting rationale on the following proposals:

(a) Expanding the scope of investments by REITs and InvITs to include liquid mutual fund schemes where the credit risk value is at least 10 and which fall under the Class A-I or Class B-I in the potential risk class matrix.

4. ALIGNMENT OF INVESTMENT CONDITIONS FOR PRIVATE INVIT WITH PUBLIC INVIT IN RELATION TO INVESTMENT IN GREENFIELD PROJECTS (FOR InvITS)

4.1. BACKGROUND

4.1.1. Regulation 18 of InvIT and REIT Regulations *inter-alia* provides the investment conditions applicable to REITs and InvIT. As per the extant norms, while a publicly listed InvIT can invest in pure greenfield projects (with a cap of 10% of value of InvIT assets), a privately listed InvIT cannot invest in such greenfield projects.

4.1.2. It has been represented by market participants that private InvITs should also be allowed to invest in greenfield projects in line with what is permitted for public InvITs.

4.2. EXTANT REGULATORY PROVISION:

4.2.1. Regulation 14(2) and Regulation 14(4) of the InvIT Regulations provide provisions for fund raising by a privately listed InvIT and publicly listed InvIT respectively.

4.2.2. Regulation 18(4) of InvIT Regulations reads as under –

In case of InvIT as specified under sub-regulation (2) of regulation 14, the InvIT shall invest not less than eighty per cent of the value of the InvIT assets in eligible infrastructure projects either directly or through holdcos or through SPVs:

Provided that un-invested funds may be invested in instruments as provided under sub-clause (ii), (iii), (iv), (v), (vi), (vii) and (viii) of clause (b) of sub-regulation 5 of Regulation 18.

4.2.3. Regulation 18(5) of InvIT Regulations reads as under –

In case of InvITs as specified under sub-regulation (4) of regulation 14, -

(a) not less than eighty per cent. of the value of InvIT the assets shall be invested, proportionate to the holding of the InvITs, in completed and revenue generating infrastructure projects subject to the following;

i. ….;

ii. ….;

(b) not more than twenty per cent. of value of the InvIT assets, shall be invested in, –

(i) under-construction infrastructure projects, whether directly or through holdco and/ or SPVs:

Provided that investment in such assets shall not exceed ten per cent. of the value of the InvIT assets;

(ii) …..

4.3. CONSIDERATION OF PROPOSAL

4.3.1. Regulation 18 of the InvIT Regulations *inter-alia* mandates the following investment conditions applicable for publicly listed InvIT and privately listed InvIT –

a. <u>Privately Listed InvIT</u>

- A privately listed InvIT is mandated to invest at least 80% of the value of the InvIT assets in eligible infrastructure projects[1].

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[1] *infrastructure project which, prior to the date of its acquisition by, or transfer to, the InvIT, satisfies the following conditions, –*

I. For PPP projects, –

a. the Infrastructure Project is completed and revenue generating project, or
b. the Infrastructure Project, which has achieved commercial operations date and does not have the track record of revenue from operations for a period of not less than one year, or
c. the Infrastructure Project is a pre-COD project which inter-alia means that either achieved 50% completion or expended 50% of the total construction cost

II. In non-PPP projects, the infrastructure project has received all the requisite approvals and certifications for commencing construction of the project;

Eligible Infrastructure projects, inter-alia, include PPP projects which have not achieved commercial operation date, but have achieved either at least completion of 50% construction or expended at least 50% of the total capital cost (herein after referred as ***"50-50 test"***).

- The balance 20% of the value of InvIT assets may be invested in other investment avenues, such as money market instruments, government securities, liquid mutual funds, etc.

b. **Publicly listed InvIT**

- A Public InvIT is mandated to invest at least 80% of the value of InvIT assets in completed and revenue generating infrastructure projects.
- Balance 20%, may be invested in under-construction projects (pure greenfield projects) i.e. which does not meet the 50-50 test (with a maximum ceiling of 10%) or other investment avenues, such as money market instruments, government securities, liquid mutual funds, etc.

4.3.2. A summary of investment conditions in Privately listed InvIT vis-à-vis Publicly listed InvIT is as under:

	Privately listed InvIT	***Publicly listed InvIT***
80% of the Value of InvIT Assets	Eligible Infrastructure Project	Completed and Revenue Generating Project
20% of the Value of InvIT Assets	Other Investments	• Other Investments • **Under construction projects (ceiling of 10%)**

4.3.3. As per the extant regulations as discussed above, a Publicly listed InvIT can invest up to 10% of its value of InvIT assets in a pure greenfield under construction project since there is no requirement of meeting the 50:50 test. However, a privately listed InvIT is unable to do so because a pure greenfield PPP project may not meet the definition of eligible infrastructure project (i.e. 50-50 test) and investments in under construction project is not included in the other permitted investments in the balance 20% category for a privately listed InvIT.

4.3.4. It may be noted that investment in units of a publicly listed InvIT is permitted for retail individual investors and the secondary market lot size is kept at 1 unit owing to low execution risk as a publicly listed InvIT is mandated to invest at least 80% of its assets in completed and revenue generating projects. Still, a limited exposure in under-construction projects (upto 10%) is permitted for a publicly listed InvIT.

4.3.5. On the other hand, even though the participation in privately listed InvITs in the primary market is permitted only for Institutional Investors and body corporates and the minimum lot size is kept at Rs. 25 Lakhs, a privately listed InvITs is not permitted to invest in under-construction projects (pure greenfield projects) in the other investments category.

4.3.6. To align the rights of privately listed InvITs with those of publicly listed InvITs in terms of avenues for investment, a privately listed InvITs may also be allowed to invest upto 10% of its value of InvIT assets in under-construction projects (including a pure greenfield project) as permitted for publicly listed InvITs.

4.4. **PROPOSAL**

4.4.1. In view of the above, it is proposed to amend Regulation 18(4) of InvIT Regulations as under (addition underlined and highlighted in red color) –

In case of InvIT as specified under sub-regulation (2) of regulation 14, the InvIT shall invest not less than eighty per cent of the value of the InvIT assets in eligible infrastructure projects either directly or through holdcos or through SPVs:

Provided that un-invested funds may be invested in instruments as provided under sub-clause (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) of clause (b) of sub-regulation 5 of Regulation 18.

4.4.2. The proposed amendment will facilitate privately listed InvITs to invest into pure green field projects up to ten percent of its value of InvIT Assets.

4.5. **RECOMMENDATION OF HYSAC**

4.5.1. The above proposals are made based on the recommendations of the HYSAC.

Consultation 3: Alignment of investment conditions for Private InvITs with Public InvITs in relation to investment in greenfield projects (For InvITs)

Kindly provide your comments along with supporting rationale on the following proposal:

(a) Permitting privately listed InvITs to invest in pure greenfield project up to 10% of its value of InvIT assets in alignment with publicly listed InvITs

5. *EXPANDING THE SCOPE OF PERMITTED USE OF FRESH BORROWINGS FOR INVITS WHERE NET BORROWINGS EXCEEDS 49% OF THE VALUE OF ASSETS (FOR InvITS)*

5.1. BACKGROUND

5.1.1. Regulation 20(3)(b)(ii) of the InvIT Regulations *inter-alia* require that if the aggregate consolidated borrowings and deferred payments of the InvIT, holdco and the SPV(s), net of cash and cash equivalents ("Net Borrowings") exceed 49% of the value of the InvIT assets then any further borrowing shall be utilized by the InvIT only for acquisition or development of infrastructure projects.

5.1.2. BIA has *inter-alia* requested to clarify that refinancing of debt by the InvIT/SPV/Holdco and obtaining debt for undertaking any improvement/major maintenance/capacity augmentation/one-time improvements of infrastructure assets, are considered as permitted use of borrowed funds under Regulation 20(3)(b)(ii) of the InvIT Regulations.

5.2. Extant Regulatory Provisions

5.2.1. Regulation 20(3) of the InvIT Regulations requires as under:

"If the aggregate consolidated borrowings and deferred payments of the InvIT, holdco and the SPV(s), net of cash and cash equivalents exceed twenty five per cent. of the value of the InvIT assets, for any further borrowing,–

(a) upto forty nine percent, an InvIT shall

(i) obtain issuer credit rating of the InvIT from a credit rating agency registered with the Board; and

(ii) seek approval of unitholders in the manner as specified in Regulation 22.

(b) above forty nine percent, an InvIT shall –

(i) obtain issuer credit rating of the InvIT of “AAA” or equivalent from a credit rating agency registered with the Board;

(ii) utilize the funds only for acquisition or development of infrastructure projects;

(iii) have a track record of atleast six distributions, in terms of sub-regulation (6) of regulation 18, on a continuous basis, post listing, as at the end of the quarter preceding the date on which the enhanced borrowings are proposed to be made

Provided that for computing six continuous distributions, maximum one distribution per quarter shall be considered and the distributions shall be consistent with the distribution policy disclosed to the unitholders;

(iv) obtain the approval of unitholders in the manner specified in sub-regulation (5A) of regulation 22.”

5.3. **REPRESENTATION RECEIVED FROM INDUSTRY ASSOCIATION**

5.3.1. As per Regulation 20(3)(b) of the InvIT Regulations, if the Net Borrowings exceed 49% of the value of the InvIT assets, then any further borrowing shall be utilized by the InvIT only for acquisition or development of infrastructure projects. However, there is lack of clarity whether such ‘additional debt’ can also be used for undertaking any refinancing of the existing loan (to provide better terms or at the time of acquisition) or for raising debt for undertaking improvement (such as major maintenance).

5.3.2. Refinancing of existing debt at the SPV/Holdco level with fresh borrowings at the InvIT level at the time of acquisition of the SPV/Holdco by the InvIT

5.3.2.1. In the acquisition cycle, refinancing is typically undertaken immediately post the acquisition of the assets by the InvIT and involves retirement of debt raised by the acquired entity from financial institutions and erstwhile owners with the debt raised by

InvIT from its lenders. The aim of such refinancing is generally to align the debt profile of the acquired SPV with that of the InvIT and to provide InvIT's lenders with the benefit of diversified and pooled cash flows.

5.3.2.2. In this regard it may be noted that loans at the SPV/Holdco level which are refinanced post-acquisition were originally availed for development of infrastructure assets and accordingly, even replacing such loans with loans from InvIT (raised from InvIT lenders) upon acquisition of the SPV/Holdco, does not change the end use of the original loan.

5.3.3. <u>Refinancing of existing debt at the InvIT/SPV/Holdco level due to debt maturity, availability of better terms etc.</u>

5.3.3.1. In infrastructure sector the financing is made available for a period which is less than the full life of the projects or underlying concessions (35 years for Transmission Service Agreements, 20-25 years for Road concessions, 20-25 years for Power Purchase Agreements). For example, listed non-convertible debentures would typically be for a period of three to seven years, and bank financing would typically be for a period of ten to twelve years. Accordingly, such debt instruments/ arrangements will be required to be refinanced during the life of the concession or the project.

5.3.3.2. Additionally, refinancing of debt existing at the InvIT, HoldCos or SPVs may also be undertaken before their respective maturities for various reasons including reduction of cost of debt for the benefit of the unitholders or in compliance with the relevant provisions of the financing documents, if any. Accordingly, it is submitted that additional financing availed at the InvIT level for refinancing any existing debt does not violate the intent of the InvIT Regulations.

5.3.4. Obtaining debt for major maintenance or one-time repair cost for existing assets

5.3.4.1. The SPV may incur capital expenditure to enhance asset performance or meeting the relevant project contract requirements such as major maintenance, capacity augmentation, repowering/augmentation in the case of road or renewable energy projects, as may be applicable. In certain instances, the expenditure may be mandated by regulation e.g., optical ground wire for transmission assets, installation of static variable generators for certain renewal energy projects, etc.

5.3.4.2. Major Maintenance ("MM") expense refers to periodic expenditure required to be undertaken to enhance the infrastructure asset life and to ensure it continues to meet the specifications of the concession agreements. MM expense is distinct from routine operations and maintenance cost required for day to day servicing or operations of the asset.

5.3.4.3. In case of renewable assets MM expense refers to cost incurred for replacement of modules or inverters. Similarly, in case of airports, MM expense includes the cost of refurbishing/ overlaying the runway. In case of road assets, MM expense refers to cost incurred for resurfacing/ overlaying the pavements, comprehensive repairs to structures, and upgradation and refurbishment of tolling system and other equipment.

5.3.4.4. In case of road sector, under the concession agreements between NHAI/ State Authority and developer/InvIT ("Concessionaire"), the Concessionaire has no right over the road or the land. Consequently, cost of construction of road is booked as intangible asset under Ind AS 38. This is unlike transmission or renewable sectors where the actual asset belongs to the concessionaire. Hence, MM expense is eligible for capitalization in case of renewable and airport assets held under the InvIT, but cannot be capitalized for road sector InvITs as per the accounting principles as it does not generate future economic benefits like extended concession periods or increased toll revenue. Due to the same, whether it can be covered under development of infrastructure project for road assets or not requires clarity.

5.3.4.5. Financing such investments / expenditure can be considered as financing the 'development' of the said asset, which would typically result in enhancing the life and quality of the asset or compliance with the provisions mandated by relevant regulations or underlying concession agreements/PPAs etc. Such debt should be considered for 'development' of infrastructure assets and does not violate the intent of the InvIT Regulations.

5.3.5. Accordingly, BIA has requested to clarify that for the purposes of Regulation 20(3) of the InvIT Regulations, 'development' will include any refinancing of debt for newly acquired SPVs/HoldCos, refinancing of any other debt by InvIT/SPVs/HoldCos and for undertaking any improvement/major maintenance/capacity augmentation or one-time improvements of infrastructure assets owned by SPVs/Holdcos.

5.4. **CONSIDERATION OF PROPOSAL**

5.4.1. InvIT Regulations, as notified on September 26, 2014, contained a cap of 49% on the Net Borrowings Ratio of an InvIT i.e. the aggregate consolidated borrowings and deferred payments of the InvIT, holdco and the SPV(s), net of cash and cash equivalents, shall not exceed 49% of the value of the InvIT assets.

5.4.2. To provide more operational flexibility to InvITs, the InvIT Regulations were amended on April 22, 2019 to increase the maximum permitted leverage for InvITs from 49% to 70%, subject to compliance with certain conditions. One of these conditions is that the funds raised through debt, under the enhanced debt limit from 49% to 70%, shall be utilized only for acquisition or development of infrastructure projects.

5.4.3. <u>Suggestion pertaining to refinancing of existing debt (para 5.3.2 and 5.3.3 above)</u>

5.4.3.1. InvITs are inherently distribution vehicles as the regulations mandate distribution of at least 90% of the net distributable cash flows to the unitholders. Hence, acquisition of any new infrastructure project for growth of the InvIT is generally funded via equity and/or debt raise. The acquisition of infrastructure projects by the InvIT is done on Enterprise Value basis i.e. both the equity stake as well as existing debt in the underlying project SPV is taken over by the InvIT. It may be noted that the project SPV debt is originally taken for development of infrastructure project. At the time of acquisition of a project SPV by the InvIT, the existing SPV level debt is refinanced at the InvIT level thereby substituting such debt with loan provided by InvIT to the SPV.

5.4.3.2. As the SPV level debt was originally taken for development of infrastructure project, it is proposed to clarify that refinancing of such debt is considered as permitted use under Regulation 20(3)(b)(ii) of the InvIT Regulations which currently require that InvITs with Net Borrowings ratio exceeding 49% shall utilize any additional borrowings only towards acquisition or development of infrastructure projects.

5.4.3.3. Further, post-acquisition of a SPV by the InvIT, loans availed by the InvIT or its underlying SPVs for development of infrastructure project may need refinancing for various reasons such as availability of better terms, debt maturity etc. As the loans getting refinanced were originally taken for development of infrastructure project, it is proposed to clarify that such refinancing is considered as permitted use under Regulation 20(3)(b)(ii) of the InvIT Regulations.

5.4.3.4. It is also proposed to specify that refinancing of debt, as aforementioned, will be considered as permitted use under Regulation 20(3)(b)(ii) of the InvIT Regulations subject to the conditions that – (a) there is no increase in the Net Borrowings of the InvIT due to such refinancing, and (b) only the principal portion of debt is refinanced (i.e. any accumulated interest or any charges or fees by whatever name called shall not be refinanced).

5.4.4. <u>Suggestion pertaining to debt taken for capital expenditure and major maintenance (para 5.3.4 above)</u>

5.4.4.1. Capital expenditure incurred by the SPV by availing debt to enhance asset performance or for capacity augmentation or to meet the relevant project contract requirements is for development of infrastructure project and hence permitted under Regulation 20(3)(b)(ii). It is proposed to clarify the same.

5.4.4.2. As represented by BIA, undertaking MM expense is a mandatory requirement under the relevant concession agreement, involve substantial amount which is typically funded via debt and is not eligible for capitalization in respect of road projects vis-à-vis other infrastructure sub-sectors, although such expenditure results in enhancing quality and life of the project.

5.4.4.3. In view of the above, to facilitate ease of doing business, it is proposed to specify that debt taken for incurring Major Maintenance expense in respect of Road Projects will be considered as permitted use under Regulation 20(3)(b)(ii), wherein “MM expense” and “Road project” shall have the meaning as assigned to these terms under paragraph 5.5.2.2.1 and 5.5.2.2.2 below respectively.

5.5. **PROPOSAL**

5.5.1. In view of the above, to promote ease of doing business for InvITs, it is proposed to include an enabling provision in Regulation 20(3)(b)(ii) of the InvIT Regulations, as under (addition underlined and highlighted in red color):

“If the aggregate consolidated borrowings and deferred payments of the InvIT, holdco and the SPV(s), net of cash and cash equivalents exceed twenty five per cent. of the value of the InvIT assets, for any further borrowing,–

(a) ……

(b) above forty nine percent, an InvIT shall –

(i) …..;

(ii) utilize the funds only for acquisition or development of infrastructure projects <u>or such other purpose as may be specified by the Board from time to time</u>;

……………………..…..;

5.5.2. Pursuant to the enabling provision as aforementioned, it is proposed to specify that the following shall be permissible end use of borrowing under Regulation 20(3)(b)(ii) –

5.5.2.1. Capital expenditure made to enhance asset performance or for capacity augmentation;

5.5.2.2. Major maintenance expense in respect of Road Project, wherein -

5.5.2.2.1. Major maintenance expense shall mean expenditure incurred on maintenance of road project which is not routine maintenance and is in accordance with the obligations and requirements specified in the concession agreement.

5.5.2.2.2. Road Project shall mean a project in the ‘Roads and bridges’ infrastructure sub-sector as mentioned in the notification of the Ministry of Finance dated September 19, 2025 and shall include any amendments or additions made thereto.

5.5.2.3. Refinancing of debt, by the InvIT, SPV or Holdco, which was originally availed for purposes permitted under Regulation 20(3)(b)(ii), subject to the following conditions:

5.5.2.3.1. there is no increase in the aggregate consolidated borrowings and deferred payments of the InvIT, holdco and the SPV(s), net of cash and cash equivalents, due to such refinancing; and

5.5.2.3.2. only the principal portion of debt is refinanced (i.e. any accumulated interest or any charges or fees by whatever name called shall not be refinanced).

5.6. **RECOMMENDATION OF HYSAC**

5.6.1. The above proposals are made based on the recommendations of the HYSAC.

<u>Consultation 4: Expanding the scope of permitted use of fresh borrowings for InvITs where Net Borrowings exceed 49% of the value of assets (For InvITs)</u>

Kindly provide your comments along with supporting rationale on the following proposals:

(a) Permitting borrowings for capital expenditure under Regulation 20(3)(b)(ii) of the InvIT Regulations.

(b) Permitting borrowings for 'Major Maintenance expense' in respect of Road sector under Regulation 20(3)(b)(ii) of the InvIT Regulations.

(c) Permitting refinance of debt under Regulation 20(3)(b)(ii) of the InvIT Regulations.

6. *PUBLIC COMMENTS*

6.1. Considering the implications of the aforementioned matter on the market participants, public comments are invited on the above-detailed proposals. The comments/ suggestions should be submitted latest by February 26, 2026, through the online web-based form which can be accessed using this link.

6.2. Kindly go through the instructions mentioned on the above link before submitting comments on the consultation paper.

6.3. In case of any technical issue in submitting your comment through web based public comments form, you may contact Shri Mohit Agarwal, AM (mohita@sebi.gov.in) through email with the subject *"Consultation Paper on Measures towards Ease Of Doing Business for REITs and InvITs"*.

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