



Consultation paper for Disclosure of financial information in offer document/placement memorandum and for Valuation in respect of SEBI (Infrastructure investment trusts) Regulations, 2014

A. Background

- 1.1. The SEBI (Infrastructure investment trusts) Regulations, 2014 (**InvIT Regulations**) were notified on September 26, 2014, thereby providing a regulatory framework for registration and regulation of InvITs in India. The regulations, inter alia, prescribe conditions for making a public offer and private placement and broad guidelines for making initial and continuous disclosures including disclosures of financials of the InvIT. However, in order to enable investors to make well-informed investment decisions, timely, adequate and accurate disclosure of financial results on a periodical basis is critical. At the same time, it is important to ensure comparability, uniformity and parity in disclosures made by such entities.
- 1.2. InvIT regulations inter-alia provide for broad guidelines for an InvIT w.r.t. compliance with accounting norms to be followed at the time of the initial offering as well as continuous disclosures to be complied with by the Infrastructure investment trusts (InvITs). However, specific requirements including the preparation of accounts, formats etc. are being discussed.
- 1.3. In view of the same, a Committee was constituted, consisting of representatives from the Institute of Chartered Accountants of India and the industry, with the objective of prescribing accounting and auditing norms for InvITs. The committee worked in sub-groups and gave its recommendations on the following:
 - a Guidelines for financial disclosures in offer document/placement memorandum
 - b Continuous disclosures as per Listing Requirements
 - c Valuation of the units of InvIT
 - d Net Distributable Cash Flows (NDCFs)
- 1.4. A separate concept paper, dealing with the Continuous disclosures as per Listing Requirements and Net Distributable Cash Flows (NDCFs), has already been placed on SEBI website for public comments on June 15, 2016.

The present consultation paper proposes a framework for disclosures in offer document/placement memorandum and for Valuation of the units of InvIT.



- 1.5. Based on the recommendation of the committee, the following guidelines for disclosure of financial information in offer document/placement memorandum and for Valuation of InvIT units are proposed for public comments.
- 1.6. Further, it may be noted that the consultation paper has been prepared keeping in mind the fact that the InvIT may hold the infrastructure assets both through a special purpose vehicle (SPV) (which may be a company or a LLP) as well as directly. Therefore, depending upon the structure of holding of the infrastructure assets, the respective Acts i.e. the Companies Act, 2013/ LLP Act, 2008 shall be applicable on such structures, mutatis mutandis. Further, the disclosure of consolidated financial statements, as envisaged in the paper, shall be applicable only when the InvIT hold assets through SPV(s) as well.

B. Financial Disclosures in Offer document/placement memorandum

2. Financial Information of InvIT

2.1. Annual Financial Information

2.1.1. InvIT shall disclose its annual financial information for the previous three financial years in either of the following manner depending upon the history of the InvIT:

- (a) If the InvIT has been in existence for the last three completed financial years, the historical audited financial statements of the InvIT (on both standalone as well as consolidated basis) for last three years shall be disclosed.
- (b) However, where InvIT has been in existence for a period lesser than last three completed financial years and the historical audited financial statements of InvIT are not available for the entire three years period, then the audited Combined Financial Statements (as per para 2.1.2 below) need to be disclosed for the periods when historical audited financial statements are not available.

2.1.2. Combined Financial Statements:

Where the InvIT has not been in existence for the relevant period, the historical financial information must be provided with the combined financial performance of all the InvIT assets that will form part of the proposed InvIT structure assuming as if such InvIT structure would have been in place at the commencement of the reported period.



(a) What forms a part of Combined Financial Statements:

All the assets or entities, which are owned by InvIT (including assets or entities proposed to be owned by the InvIT prior to allotment of units in the initial offer), would collectively form part of combined financial statements.

(b) Preparation of Combined Financial Statements:

- i. These statements should be prepared on a combined basis and presented as if InvIT assets were a part of the InvIT since the first day of the three year period for which information is being presented.
- ii. The principles for preparation of Combined Financial statements should be same as the principles laid down in Ind AS 110 Consolidated Financial Statements to the extent applicable. However, unlike consolidated financial statements, the combined financial statements would not include the parent.
- iii. While preparing Combined Financial Statements, transactions between InvIT owned entities shall be eliminated.

Further, all pertinent matters, such as non-controlling interests, foreign operations, different fiscal periods, or income taxes, shall be treated in the same manner as in consolidated financial statements, to the extent applicable.

- iv. In cases where one or more of the underlying InvIT assets have been held by the sponsor/sponsor group for a period lesser than the last three completed financial years, then such assets may be reflected in the Combined Financial Statements only from the date of holding by the sponsor/sponsor group.

However, if the financial information for those assets is also available for the pre-holding period, then such assets may be reflected in the Combined Financial Statements for such pre-holding period as well.

- v. Assumptions made in preparation of the Combined Financial Statements should be disclosed in 'Basis of Preparation' of such statements.
- vi. The Basis of Preparation should also explain the principles of combination and elimination of transactions amongst entities that are included in the Combined Financial Statements.



2.1.3. Accounting Standards

The annual financial information (either historical financial statements or combined financial statements) should be prepared in accordance with Indian Accounting Standards (Ind AS) and/or any addendum thereto as defined in Rule 2 (1) (a) of the Companies (Indian Accounting Standards) Rules, 2015.

2.1.4. Financial Statements and Line Items:

- (a) For the financial information referred to in Paragraphs 2.1.1 and 2.1.2, such information, should include, at a minimum, the following components:
- i. Balance Sheet;
 - ii. Statement of Profit and Loss;
 - iii. Statement of Changes in Equity;
 - iv. Statement of Cash Flows;
 - v. Explanatory notes annexed to, or forming part of, any statements referred above
- (b) For the financial statements listed at point (a) above, the line items should, at minimum, include the following:

Line items for Balance Sheet:

I. Assets

- a) Property, plant and equipment;
- b) Capital work-in-progress
- c) Investment property;
- d) Intangible assets;
- e) Financial assets
- f) Inventories;
- g) Other receivables;
- h) Cash and cash equivalents;
- i) Deferred tax assets;
- j) Assets for current tax.

II. Equity and Liabilities

- a) Unit capital;
- b) Other payables;
- c) Provisions;
- d) Financial liabilities (excluding amounts shown under (b) and (c)), separately disclosing liabilities owed to sponsors;



- e) Liabilities for current tax;
- f) Deferred tax liabilities ;
- g) Other liabilities

Line items for statement of Profit and Loss account

I. Incomes and gains:

- a) Revenue from operations;
- b) Dividend;
- c) Interest;
- d) Other income (indicating nature).

II. Expenses and losses:

- a) Valuation expenses;
- b) Audit fees;
- c) Insurance & security expenses;
- d) Project management fees
- e) Depreciation on property, plant and equipment;
- f) Amortization of intangible assets;
- g) Finance Cost (Interest);
- h) Custodian fees;
- i) Registration fees;
- j) Repairs and maintenance in case of infrastructure asset;
- k) Other expenses

III. Profit or loss for the period before income tax

IV. Tax expense (current tax and deferred tax)

V. Profit or loss for the period after income tax

VI. Items of other comprehensive income

VII. Additional line items (if applicable)

- a) Items that will not be reclassified to profit or loss
- b) Income tax relating to items that will not be reclassified to profit or loss
- c) Items that will be reclassified to profit or loss
- d) Income tax relating to items that will be reclassified to profit or loss

VIII. Total comprehensive income for the period (III+IV) (Comprising profit (loss) and Other comprehensive income for the period)



Line items for the "Statement of changes in equity"

- I. Total comprehensive income for the period;
- II. For each component of equity, a reconciliation between the carrying amount at the beginning and the end of the period, separately (as a minimum) disclosing changes resulting from:
- III. Profit or loss;
- IV. Other comprehensive income;
- V. Aggregate amount of investments by unit holders in InvIT, and dividends / other distributions by InvIT to unit holders,

Line items for the "Cash Flow Statement"

Cash Flow Statement, shall be prepared in accordance with the requirements of Ind AS 7-"Statement of Cash Flows" and hence no line items would be prescribed.

- (c) Financial statements shall disclose all 'material' items, i.e., the items if they could, individually or collectively, influence the economic decisions that users make on the basis of the financial statements. Materiality depends on the size or nature of the item or a combination of both, to be judged in the particular circumstances

In addition to the consideration of 'materiality' as specified above, any item of income or expenditure which exceeds one per cent of the revenue from operations or Rs.10,00,000, whichever is higher, shall be disclosed separately either on the face of financial statements or in the notes.

- (d) Headings, line items, sub-line items and sub-totals shall be presented as an addition or substitution on the face of the financial statements when such presentation is relevant to an understanding of an InvIT's financial position or performance or to cater to industry/sector-specific disclosure requirements or when required for compliance with the amendments to the InvIT regulations or under the Indian Accounting Standards

2.1.5. Audit of Financial Information:

The financial information referred to in Paragraphs 2.1.1 and 2.1.2 above shall be audited and the following shall be complied in this context:

- (a) The audit should be carried out by the Auditor appointed for the InvIT as per the InvIT regulations.



- (b) In providing his report, the Auditor shall follow the requirements of the Guidance Note on Reports in Company Prospectuses, issued by the Institute of Chartered Accountants of India, to the extent applicable.
- (c) In particular, the reports of the auditors on the financial statements of the various InvIT assets (whether prepared in accordance with the framework applicable to such InvIT assets or the framework applicable to the InvIT) for the respective periods covered in the period of three years will have to be taken into account and the same would be relied upon by the auditor giving the final report.
- (d) The audit procedures to be followed in such case should be in line with the procedures stated in the Standard on Auditing (SA) 600, "Using the Work of another Auditor", to the extent applicable. The fact that the financial statements audited by other auditors have been relied upon shall be disclosed in the audit report.
- (e) As a part of the audit report, the auditor shall state whether:
- i. he has obtained all information and explanations which, to the best of his knowledge and belief, were necessary for the purpose of his audit; and
 - ii. the Balance Sheet and the Statement of Profit and Loss are in agreement with the books of account of the InvIT; and
 - iii. the financial statements comply with the applicable accounting standards in his opinion
- (f) As a part of the audit report, the auditor shall give his opinion as to whether:
- i. the Balance Sheet gives a true and fair view of the state of affairs of the InvIT as at the balance sheet date;
 - ii. the statement of profit and loss gives a true and fair view of the InvIT's profits or losses for the year/period ended at the balance sheet date
 - iii. the cash flow statement gives a true and fair view of the cash movements of the InvIT for the year/period ended at the balance sheet date
 - iv. the Statement of changes in equity gives a true and fair view of the movement of the unit holders funds for the year/period ended at the balance sheet date



2.1.6. Additional disclosures:

- (a) As part of the financial information, the InvIT shall also present operating cash flow from the projects (project-wise) for all the InvIT assets that are included in such financial information for the previous 3 years.
- (b) The InvIT shall also disclose Earnings per Unit (EPU) for the previous 3 years. The principles for computation of EPU should be same as the principles laid down in Ind AS 33 Earnings per Share, to the extent applicable.

In cases when Combined Financial Statements are presented, Earnings per Unit can be determined on the basis of the capital structure, as has been put in place for the purposes of listing. In such circumstances the number of units of the InvIT to be issued to existing investors is to be used. Relevant disclosures should be provided as part of the notes for the EPU computation.

- (c) In case of a capital offering subsequent to the initial offer, the market value of the units traded on all the designated stock exchanges where InvIT is listed should be disclosed:
 - on the last date of reporting period
 - highest value during reporting period based on intra-day and on closing price with specified date
 - lowest value during reporting period intra-day and on closing price with specified date

2.2. Interim Financial Information

2.2.1. If the date of draft offer document / offer document / placement memorandum is more than six months from the end of the last audited annual financial statements included in the draft offer document / offer document / placement memorandum, then an InvIT shall also disclose audited interim financial information, in addition to the annual financial information.

2.2.2. The said audited interim financial information should be for a period ending not earlier than six months from the date of draft offer document / offer document / placement memorandum.

2.2.3. The provisions listed in Paragraphs 2.1 above would also extend to the audited interim financial information to the extent applicable.



3. Financial information of Manager and Sponsor(s)

- 3.1 An offer document/placement memorandum of InvIT shall include Summary of the audited consolidated financial statements (including the Balance Sheet and Statement of Profit and Loss (without schedules)) of Manager and Sponsor(s) for past three years, prepared in accordance with Companies (Indian Accounting Standards) Rules, 2015 and the Companies Act, 2013 (as amended from time to time).

However, if any of the manager/sponsor is a foreign entity and is not legally required to comply with the Companies (Indian Accounting Standards) Rules, 2015 and the Companies Act, 2013 (as amended from time to time), then the financial statements of such entity can be prepared in accordance with International Financial Reporting Standards (IFRS).

- 3.2 Further, if the Manager and/or Sponsor is required to follow Companies (Indian Accounting Standards) Rules, 2015 (as amended from time to time) only for the latest year (for the latest two years including comparatives) out of the historical period of three years, then financial information for the earliest year should be disclosed as per the Companies (Accounting Standards) Rules, 2006 (as amended from time to time).

For example, if financial information of Manager/Sponsor is presented for the financial years 2014-15, 2015-16, and 2016-17 and such Manager/Sponsor is required by Companies Act, 2013 to report under Ind AS from financial year 2016-17 (with financial year 2015-16 as comparatives), then it shall disclose financial information for financial year 2016-17 and 2015-16 in accordance with Ind AS and financial year 2014-15 as per Companies (Accounting Standards) Rules, 2006 (as amended from time to time).

4. Management Discussion and Analysis

- 4.1 InvIT shall prepare and disclose Management Discussion and Analysis (MDA), based on the historical financial statements and comparison shall be provided for the most recent financial information with financial information of previous two years.
- 4.2 MDA shall include the following line items:
- A summary of the historical financial information containing significant items of income and expenditure shall be given.
 - Overview of the business of the InvIT



- Factors that may affect results of the operations, key risks and mitigating factors
- Quality of earnings and revenue streams
- An analysis of reasons for the changes in significant items of income and expenditure shall also be given, inter alia, containing the following:
 - unusual or infrequent events or transaction;
 - significant economic changes that materially affected or are likely to effect income from continuing operations;
 - known trends or uncertainties that have had or are expected to have a material adverse impact on revenues from continuing operations;
 - future changes in relationship between costs and revenues, in case of events such as future increase in operating costs that will cause a material change are known;
 - each major segments of the InvIT
 - status of any publicly announced new business segment;
 - the extent to which business is seasonal;
 - any significant dependence on a single or few suppliers or customers;
 - Competitive conditions.

5. Projections of Revenues and Operating Cash flows

- 5.1 The offer document/placement memorandum shall contain disclosures of the projections of revenues and operating cash flows of the InvIT, project-wise, over the next three years including related assumptions.
- 5.2 The projections shall be disclosed for InvIT assets/projects that are owned by the InvIT or are proposed to be owned by InvIT prior to the allotment of units in the public offer/private placement.
- 5.3 The following minimum notes should be disclosed as a part of the projections for the next three years:
- Project-wise revenue
 - Project-wise operating cash flows
 - Assumptions for projections
 - Any other item deemed important for better readability and understanding
- 5.4 The aforesaid projections, including assumptions, shall be certified by the auditor.



6. Payment history and Working capital available to InvIT

- 6.1 A statement regarding sufficiency of the working capital to fulfill the present requirements of InvIT (i.e., at least twelve months from date of listing) shall be included by the Investment Manager.

In case, sufficient working capital is not available in the opinion of Investment Manager, then a statement should be provided describing how it proposes to provide additional working capital requirement.

- 6.2 A statement including history of Interest and principal payment of InvIT shall be disclosed in Offer document/placement memorandum, for past three years, covering all the InvIT assets forming part of the historical financial information. Additionally, the following should also be disclosed:

- The carrying amount at the beginning and at end of each year
- Additional borrowings during the year
- Repayments during the year
- Other adjustments / settlements during the year

7. Contingent liabilities

- 7.1 A statement of InvIT's Contingent liabilities, if any, as on the date of the offer document/placement memorandum, shall be disclosed in the offer document/placement memorandum.

- 7.2 Contingent liabilities should be classified, at minimum, into the following heads, to the extent applicable:

- (a) Claims against the trust not acknowledged as debt;
- (b) Other money for which the trust is contingently liable;
- (c) Any claims against InvIT pending litigation
- (d) Other Contingent Liabilities (specify nature)

8. Commitments

- 8.1. A statement of InvIT's Commitments, if any, as on the date of the offer document/placement memorandum, shall be disclosed in the offer document/placement memorandum.

- 8.2. Commitments should be classified, at minimum, into the following heads, to the extent applicable:



- (a) Estimated amount of contracts remaining to be executed on capital account and not provided for;
- (b) Uncalled liability on shares and other investments partly paid including that of SPV;
- (c) Other Commitments (specify nature)

9. Others Disclosures

9.1. Related party transactions

9.1.1. Without prejudice to the definition of related parties under the InvIT Regulations and the associated compliance and disclosure requirements mandated by the InvIT Regulations, the InvIT shall as also comply with requirements of “Ind-AS 24 – Related Party Disclosures” in the preparation of its financial information, and for this purpose, it shall also provide relevant disclosures for all related parties as defined in the InvIT Regulations.

9.1.2. The disclosures related to Related parties and Related party transactions should, at minimum, include the following:

- (a) Details of related party and its relationship with InvIT;
- (b) Nature of the transaction;
- (c) Value of the transaction;
- (d) Summary of valuation report;
- (e) Current yield and the impact of the acquisition/disposal on the yield of the units of InvIT;
- (f) Material conditions or obligations in relation to the transaction;
- (g) Rate of interest, if external financing has been obtained for the transaction/acquisition; and
- (h) Any fees or commissions received or to be received by any associate of the related party in relation to the transaction.

9.2. Capitalisation statement

An InvIT shall include a Capitalisation Statement in the offer document/placement memorandum, showing total debt, net worth, and the debt/equity ratios before and after the completions of issue. An illustrative format of the Capitalisation Statement is specified hereunder:

Particulars	Pre-issue as at	As Adjusted for issue
		(Amount)



Total Debt	xx	xx
Unitholders' Funds		
Unit Capital	xx	xx
xx	xx	xx
xx	xx	xx
Reserves	xx	xx

Provided that in case of any change in the unit capital (since the date from which the financial information has been disclosed in the Offer document/placement memorandum), a note explaining the nature of the change shall be given.

C. Valuation of the units of the InvITs

10. Definition of the Valuer

10.1. Regulation 2(1)(zzf) of the InvIT Regulations defines the valuer as

any person who is a "registered valuer" under section 247 of the Companies Act, 2013 and who has been appointed by the investment manager to undertake valuation of the InvIT assets:

Provided that till such date on which section 247 of the Companies Act, 2013 comes into force, valuer shall mean an independent merchant banker registered with the Board or an independent chartered accountant in practice having a minimum experience of ten years;

10.2. In this reference, representations were received that the definition of the valuer as provided in the regulation may be expanded so as to allow other classes of valuers and members of other professional bodies which are engaged in the profession of valuation of such infrastructure assets, etc.

10.3. Committee looked into the issue and recommended that till the time Section 247 of Companies Act, 2013 doesn't comes into force. the draft rules available, with reference to the definition of valuer, may be used for defining the valuer under the InvIT Regulations. Thus, the proposal is to expand/modify the definition of the valuer under the InvIT Regulations so that the revised definition is in line with the requirements as being proposed under draft rules of The Companies Act, 2013.

The revised definition proposed shall be as under:



“valuer” means the person(s) who are eligible to apply to be a “registered valuer” under section 247 of the Companies Act, 2013, and who has been appointed by the investment manager to undertake valuation of the InvIT assets.

Provided that till such date on which section 247 of the Companies Act, 2013 comes into force, valuer shall mean

(a) a chartered accountant, company secretary or cost accountant who is in whole-time practice, or retired member of Indian Corporate Law Service or any person holding equivalent Indian or foreign qualification as the Ministry of Corporate Affairs may recognize by an order;

provided that such foreign qualification is acquired by Indian citizen.

(b) a Merchant Banker registered with the Securities and Exchange Board of India, and who has in his employment person(s) having qualifications prescribed under (a) above to carry out valuation by such qualified persons;

(c) member of the Institute of Engineers and who is in whole-time practice;

(d) member, of the Council of Architecture or the Indian Institute of Architects, and who is in whole-time practice;

(e) A person or entity possessing necessary competence and qualification in valuations as may be notified by the Central Government from time to time.

Provided that persons referred to in (a), (c) and (d) and qualified person in (b) above shall have not less than five years continuous experience in valuation field after acquiring membership of respective institutions;

Provided further that in the case of merchant banker the valuation report shall be signed by the qualified person.

Provided also that persons referred to in (a) and (b) shall be in respect of requirement for a “financial valuation” and the persons referred to in (c) and (d) shall be in respect of requirement for a “technical valuation” and a person or a firm or Limited Liability Partnership or merchant banker possessing both the qualifications may act in dual capacity.

Explanation: *For the purposes of this Regulation, a person shall be deemed “to be in whole-time practice”, when individually or in partnership or in limited liability partnership or in merchant banker with other persons in practice who are members of other professional bodies, he, in consideration of remuneration received or to be received:*



- (i) *engages himself in the practice of valuation; or*
- (ii) *offers to perform or performs services involving valuation of any assets with the object of arriving at financial value of the asset being valued; or*
- (iii) *renders professional services or assistance in or about matters of principle or detail relating to valuation.*

11. Mandatory disclosures in the valuation report (Schedule V)

11.1. The Schedule V of the InvIT Regulations prescribes the minimum set of mandatory disclosures to be made in the valuation report. In this reference, committee has recommended that the minimum disclosures in valuation report may include following information as well, so as to provide the investors with the adequate information about the valuation and other aspects of the underlying assets of the InvITs.

11.2. The additional set of disclosures, in addition to as prescribed under Schedule V of InvIT Regulations, to be made in the valuation report shall be as under:

- a. Historical valuations made for a period of last three financial years for each asset, as applicable
- b. Information regarding the assumed factors while calculating the valuation such as discounting rate, tenure etc.
- c. For each specific InvIT asset, the following additional details must be mentioned:
 - (i) List of one-time sanctions/approvals which are obtained or pending;
 - (ii) List of up to date/overdue periodic clearances;
 - (iii) Statement of assets included;
 - (iv) Estimates of already carried as well as proposed major repairs and improvements along with estimated time of completion;
 - (v) Revenue pendencies including local authority taxes associated with InvIT asset and compounding charges, if any;
 - (vi) On-going and closed litigations including tax disputes in relation to the assets, if any;
 - (vii) Vulnerability to natural or induced hazards that may not have been covered in town planning/ building control.

11.3. Further, a brief summary of the valuation as per full valuation report shall also be provided as the part of the valuation report



D. Public Comments

12. In the light of the above, public comments are invited on the consultation paper. Comments may be forwarded by email to invit@sebi.gov.in or may be sent by post to the following address latest by **July 31 2016**:

Ms. Richa Agarwal
Deputy General Manager
Investment Management Department,
Division of Funds I
Securities and Exchange Board of India
SEBI Bhavan, Plot No. C4-A, G Block
Bandra Kurla Complex
Mumbai - 400 021

13. Comments should be given in the following format:

Name of entity/ person/ intermediary: _____			
S. No.	Pertains to Point No.	Proposed/Suggested changes	Rationale

Issued on: **July 08, 2016**