

Our Views

REITs and InvITs Shine with Strong Performance — Time for Phase 2 Reforms

In one of his insightful presentations, Mr. Nandan Nilekani highlighted that real estate is the largest asset class in India. Yet, ironically, this massive asset base remains largely outside the realm of monetization, trading, and capital market access. As I discussed in my previous article, “Unlocking Value: Why REITs and InvITs Deserve the Spotlight,” these instruments represent a structured and promising attempt to bring a significant portion of this asset class into the capital markets.

In 2014, the Securities and Exchange Board of India (SEBI) introduced the InvIT framework to enable infrastructure financing via capital markets. As of FY24, 24 InvITs are registered with SEBI, with a combined net asset value of INR 4.7 trillion — less than 1% of India’s GDP. This indicates vast untapped potential for market expansion.

Given their strategic importance, supporting the growth and evolution of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) is not just desirable — it is essential. It’s now time to usher in Phase 2 of REIT and InvIT development. One of the most accessible and impactful reforms we can pursue in this phase is: ‘Streamlining the Conversion from Private to Public Infrastructure Investment Trusts (InvITs)’.

Current Regulatory Framework

Under the SEBI (Infrastructure Investment Trusts) Regulations, 2014, InvITs are classified into two categories:

- Public InvITs: Units are offered to all investor classes and must be listed on recognized stock exchanges.
- Private Listed InvITs: Units are offered via private placement to institutional investors and body corporates, and are also listed.

A SEBI circular dated February 9, 2022, provides framework for a private listed InvIT to convert into a public InvIT by making a public issue of units through a fresh issue and/or an offer for sale.

Why This Reform Is Necessary

Out of the 24 registered InvITs, only 5 are publicly listed — the rest remain privately listed. Though SEBI has provided a conversion framework, it currently requires private InvITs to follow the same procedures as a fresh public listing. This is redundant, considering that both private and public InvITs already adhere to similar regulatory standards, including:

- Common Eligibility Criteria: Applicable to sponsors, investment managers, and trustees.
- Key Investment Conditions: Both must allocate at least 80% of assets to infrastructure projects. Public InvITs must focus on completed and revenue-generating projects, whereas private InvITs have greater flexibility.
- Distribution Policy: A minimum of 90% of net distributable cash flows must be distributed to unitholders.

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- **Lock-in Periods:** Lock-in requirements for sponsors, early investors, and anchor investors are similar.
- **Financial Disclosures:** Offer documents require financial data for the past three fiscal years and the current stub period, if applicable.
- **SEBI Review:** Public issue documents must be submitted to SEBI 30 days before filing with exchanges and made available for public comment for at least 21 days.

Given this common ground, the conversion process from private to public InvITs can and should be fast-tracked, akin to a Follow-on Public Offer (FPO) or Rights Issue.

Key Recommendations for Reform

1. Introduce a Fast-Track Conversion Mechanism

Currently, the conversion process mirrors an initial public offer, requiring draft offer documents, restated financials, SEBI and stock exchange approvals, and more. To ease this, a fast-track process could be introduced based on certain eligibility criteria:

- Minimum number of years listed
- Market capitalization thresholds
- Proven compliance and distribution track record
- Redressal of investor complaints
- Approval from unitholders

Offer documents could be simultaneously filed with the Registrar of Companies, Stock Exchanges, and SEBI — following the procedure under Regulation 156 of SEBI ICDR Regulations for fast-track FPOs.

2. Rationalize Disclosure Requirements

Instead of restated audited financials, the audit report already prepared by InvITs can be reproduced, while summary financials for the past three years (including stub period, if applicable) are disclosed. Lead managers should provide enhanced due diligence certificates and confirm regulatory compliance.

3. Revisit Lock-in Requirements

According to the SEBI circular on conversion, sponsors must undergo a fresh lock-in period: 18 months for the minimum contribution and 12 months for the excess. However, if the sponsor has already served a lock-in during the private listing stage, credit for that period should be granted.

Additionally, existing unitholders (other than sponsors) of private InvITs should be exempt from further lock-in, or have their requirement reduced to 6 months, in line with SEBI ICDR Regulations.

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Conclusion

Streamlining the conversion of private InvITs to public InvITs is a crucial step to deepen the market and improve liquidity. At the same time, regulatory safeguards must be maintained to protect investors. With a fast-track process, rationalized disclosures, and pragmatic lock-in rules, these reforms can unlock capital, increase transparency, and boost investor confidence.

Ultimately, enabling a smoother path for InvITs to transition from private to public status will accelerate infrastructure development and bring India's largest asset class closer to the heart of its capital markets.

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