THE HINDU Business Line

SEBI proposal on real estate investment trust set to get RBI nod

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Getting 'pass through' status from Income-Tax Dept a problem: U.K. Sinha

Mumbai, Dec. 23:

The much-awaited Real Estate Investment Trust (REIT) regime has inched closer to becoming a reality, with the banking regulator keen on approving changes to attract foreign investments.

The Reserve Bank of India is learnt to have cleared the initial decks favouring changes in the Foreign Exchange Management Act (FEMA) and Foreign Direct Investment rules, as sought by the market regulator SEBI.

Ruchir Sinha, Head of Debt and Private Equity at Nishith Desai Associates, a law firm, said: "SEBI had sought these changes from the RBI, and the RBI has shown favour for the same."

REIT is a single company or group that owns and manages real estate properties on behalf of investors, much like shareholding in a company.

SEBI board meet

The matter is up for discussion and could feature in SEBI's board meeting on Tuesday.

Draft guidelines on REITs are also to be finalised at the meeting, according to informed sources. Draft guidelines were floated by SEBI in October, as part of its third attempt to revive REITs.

According to legal experts who spoke to *Business Line*, the amendments required include adding units of REIT under Schedule V of the FEMA — relating to the transfer and issue of securities by a person residing outside India. The other changes required would be to exclude REIT from the Capital Account Transaction Regulations 4(b), under which all direct and indirect investment in 'real estate business' is presently prohibited. Real Estate Business is defined to mean dealing in real estate excluding construction development.

When contacted, the RBI spokesperson declined to comment on the matter.

"SEBI would be required to amend the Securities Contract (Regulations) Act to notify REITs as a security and the FIIs and qualified foreign investor (QFI) regulations recognising the units of REIT as permissible securities to invest in. Currently, FII and QFI investment is allowed in mutual funds, Government bonds, treasury and shares, but units of a REIT are not recognised," added Ruchir Sinha.

'Significant step'

Sandeep Parekh, former SEBI Executive Director and founder of Finsec Law Advisors, said:

"This would be a significant step for encouraging the flow of foreign investments into REITs in India, which would be good for the real estate sector in the long run. However, in the short run, the main concern for the roll-out of REITs in India is clarity on its tax efficiency, which is still awaited."

The realty industry's request for a 'pass through' status through a change in the Income Tax Act, and one-time waiver of stamp duty and property tax would also come up for discussion at the SEBI meet.

These initiatives are aimed at making REITs a more investor friendly vehicle, sources informed.

"We are coming out with the final guidelines soon, but the problem is getting the tax 'pass through' status," SEBI Chairman U.K. Sinha told *Business Line*, but declined to divulge details.

Though the regulator has already sought the Income Tax department's approval for the 'pass through' status, the Finance Ministry has ruled out any such amendments before the 2014 general elections.

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