

Realty Check

March 22, 2011

REAL ESTATE IN INDIA - A PRACTICAL INSIGHT

According to World Bank President Robert Zoellick, the high level of growth in India is helping the international economy recover from the devastating effects of the global financial crisis. Although, India witnessed a slowdown in growth following the global financial crisis, its growth rate picked up to 7.4% in 2009-10 from 6.7% the year before. India's economy expanded by 8.9% in the first half of the current fiscal year making it one of the fastest growing economies worldwide.

Now, according to a new 2011 report by Pricewaterhouse Coopers and Urban Land Institute, the current shortfall of "appetizing real estate deals in Asia has lead investors to look for greener pastures" and foreign money has particularly been looking at India as a new real estate investment destination. Even so, though more than 50% of the global FDI inflows entered the economy of the developing markets, FDI inflow in India fell by an astonishing 31% in 2010, from a year earlier to \$24 billion. A possible cause for such decline in foreign investments may be attributed to legal and commercial challenges peculiar to India, such as enforceability of exit rights, enforceability of security interests, elaborate dispute resolution processes and, in the recent times, an uncertain tax and regulatory regime.

As it happens, even though the approach to foreign investment changed from 'red tape' to 'red carpet' with the introduction of the New Economic Order in 1991, which initiated the process of liberalization, traces of 'red tapism' are still evident when it comes to foreign investment in real estate. Though most sectors have been deregulated, foreign investment in real estate continues to be highly regulated, with foreign debt being prohibited for real estate.

A careful consideration of the existing legal, tax and regulatory regime is necessary. Keeping such considerations in mind, we present to you – **Realty Check** – an in-depth insight into the legal, tax and regulatory framework for funding real estate projects in India addressing critical issues and challenges faced by foreign investors in making such investments.

We begin the series with familiarizing you with the essentials of real estate in India. Please [click here](#) to view the India Chapter authored by *Deepak Jodhani* and *Ruchir Sinha* in *The International Comparative Legal Guide to Real Estate 2011 (A practical cross-border insight into real estate law)*.

Watch this space for our next chapter in this series on "Funding Real Estate Projects – Exit Challenges" addressing some of the most crucial issues faced by foreign investors in exiting from real estate projects.

- **Deepak Jodhani & Ruchir Sinha**

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