

Corpsec Hotline

June 27, 2006

MUTUAL FUNDS GET READY FOR THE 'REAL' ACTION

The Securities and Exchange Board of India ("SEBI") has, in a Board Meeting held in Mumbai on Monday, June 26, 2006, approved the guidelines for Real Estate Mutual Funds ("REMFs").

A press release to this effect has been issued by the SEBI ([Press Release No. 166/2006](#)), as per which the REMFs would be allowed to invest directly in real estate properties within India, in mortgage (housing lease) backed securities, equity shares/ bonds/ debentures of listed and unlisted companies which deal in properties and also undertake property development, as well as in other securities.

This essentially means that unlike the real estate Venture Capital Funds ("VCFs"), the REMFs would be allowed to own properties directly, thereby making the structure more tax efficient. Further, the REMFs may have more flexibility in structuring of investments as compared to real estate VCFs.

The REMFs shall be governed by the provisions and guidelines under SEBI (Mutual Funds) Regulations, 1996 ("Regulations") which are to be amended soon. Accordingly, REMFs would be required to appoint a custodian, who has been granted a certificate of registration to carry on the business of custodian of securities by the SEBI, for the safe keeping of the title of real estate properties held by the REMFs. The units of the REMFs shall be compulsorily listed on the stock exchanges to provide liquidity to the investors and the net asset value will have to be declared daily. The structure of the REMFs, initially, shall be close ended. The final set of guidelines governing the REMFs are awaited and are expected to be notified soon.

The Association of Mutual Funds in India Sub-Committee on Real Estate Funds ("Committee") had earlier recommended that the REMFs should be close ended for a minimum of 3 years, offering redemption/ repurchase at the end of this period in a staggered manner. Further, the Committee recommended that the schemes may be open at the end of every quarter for sale of fresh units and remain open for a minimum period of 15 days, and should be eligible for all tax benefits as other mutual funds.

Internationally, the Real Estate Investment Trusts ("REITs"), are structured as open ended vehicles. However, in India, the SEBI has moved in line with the recommendations of the Committee to initially allow only close ended schemes, so that it can not only test the waters but also provide for building up of liquidity for the asset class. Once adequate liquidity is achieved, open ended schemes may be allowed. It would also be important to see the valuation guidelines that may be laid down by SEBI in this regard and compare the same to the international practice followed by REITs.

Concerns over foreign investments

Time and again, the Reserve Bank of India ("RBI") has made it clear in its position that it would like to be cautious about the inflating 'asset-price bubble'. Accordingly, over the last several months the RBI has been raising concerns against opening the realty sector to investments from overseas investors, albeit, the same has not been reflected in SEBI's decision on Monday. However, it is still unclear as to whether (i) the imbroglio surrounding Foreign Venture Capital Investment in real estate, owing to concerns that allowing the same would be akin to Foreign Direct Investment ("FDI") without the necessary norms being followed (FDI up to 100% is allowed in real estate subject to compliance with specified criteria), would be resolved any time soon, and (ii) whether any foreign participation would be permitted in the REMFs, and if so, in what form.

- Anirudh Rastogi & Siddharth Shah

You can direct your queries or comments to the authors

Source:

- SEBI Press Release 166/2006
- The Economic Times dated June 27, 2006

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In

Research Papers

Taxing Offshore Indirect Transfers in India

February 28, 2025

Unlocking Corporate Philanthropy

February 27, 2025

Digital Health in India

February 26, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

Vaibhav Parikh, Partner, Nishith Desai Associate on Tech, M&A, and Ease of Doing Business

March 19, 2025

Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

case this mail doesn't concern you, please unsubscribe from mailing list.

SIAC 2025 Rules: Key changes & Implications

February 18, 2025

How Cross Border M&A Will Shape the AI Age

February 13, 2025