EPRA REPORTING

European Public Real Estate Association

Global REIT Survey 2011

September

A comparison of the major REIT regimes around the world

Global

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Foreword

Welcome to the *EPRA Global REIT Survey 2011*. This, the ninth edition of the survey, continues to represent the input from seven leading advisory firms from within the EPRA membership, as well as REIT representative organisations from all corners of the globe.

The survey tracks the evolution of existing REIT and "REIT-like" regimes, responding to the ever-evolving real estate market.

This year's survey does not include any new REIT regimes or prominent discussions on emerging new regimes. This is perhaps understandable, at a time when national governments are struggling to balance the books, given the misplaced fear that governments (and treasury/tax departments ultimately responsible for introducing the new legislation) harbour concerning the REIT structure as an investment vehicle which has a negative impact on national tax revenues.

This is a perception that needs to be actively challenged by the property investment community because established REIT regimes have been shown to provide a steady and reliable tax revenue stream for government (through the increased flow of dividends and collection of withholding taxes). But this is only a small part of the story.

At its most basic, the key reason why EPRA believe that governments should introduce REITs legislation and continue to develop the REIT sector is because it will act as a catalyst for the growth of the publicly listed real estate sector - a sector that still only represents around 5% of the world's total underlying real estate.

The growth of global REITs and a corresponding larger listed property market will result in:

- Higher standards of management and reporting
- A higher quality built environment, including a more rapid, measurable improvement in sustainable development
- A more stable and robust economy
- A regular and reliable source of tax revenue for national governments
- A liquid form of investment in managed real estate – providing stable, long term investment returns, accessible for all

At a time when the governments are taking steps to improve regulation, increase transparency of the investment markets and reduce the risk of future economic crisis, positive steps to grow the public property markets would go a long way to attain these goals.

I would like to thank all contributing partners for this version of the *EPRA Global REIT Survey*. Special words of thanks must go to the following members of the EPRA Taxation Committee who have coordinated and edited the input to the survey from their respective firms:

Baker & McKenzie	*Oliver Mesmin*
Deloitte	*Phil Nicklin*
Ernst & Young	*Dietmar Klos*
KPMG	*Richard White*
Loyens & Loeff	*Ronald Wijs*
PricewaterhouseCoopers	*Uwe Stoschek*

The *EPRA Global REIT Survey* is a "snapshot" of the current situation as at September 2011, and we trust you find the survey both interesting and informative.

Philip

Philip Charls - *Chief Executive Officer - EPRA*

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Americas

Brazil

(FII)

Global REIT Survey 2011

September

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1 General introduction

	Enacted year	Citation	REIT type	REIT market
FII	1993	Federal Law 8.668/93, amended by Federal Law 9.779/99, and regulated by Rulings (ICVM) 206/94 and 472/08	Fund type	- 112 FII (46 listed) - BRL 8.9 billion NAV (approx. EUR 3.8 billion as at March 2011)

In Brazil, an investment fund for real estate endeavours is called a '*Fundo de Investimento Imobiliário*' (FII). This vehicle was introduced in 1993.

The FII is governed by the Federal Law 8.668/93, amended by Federal Law 9.779/99, and regulated by Brazilian Securities Commission (CVM – Brazilian equivalent to US SEC) under Rulings (*Instrução CVM*) 206/94 and 472/08.

As at March 2011, there were 112 FIIs in operation in Brazil with net asset value in excess of BRL 8.9 billion, 46 of which are listed on the São Paulo Stock Exchange – Bovespa.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Must be approved by the Brazilian Securities Commission (CVM) - Managed by a financial institution - Subscriptions for units must be registered with the CVM

The FII is regulated and supervised by the Brazilian Securities Commission – CVM.

The FII must be formed and managed by financial institutions duly authorised by the CVM. Only financial institutions with investment portfolios, real estate assets, credit portfolios or other financial instruments are authorised to manage an FII.

The fund manager should seek CVM approval before setting up the FII by providing the following:

i. request of the public offering of fund units or formal request to waiver such registration;
ii. fund by-laws and regulations;
iii. information on the fund's records with the Public Notary;
iv. appointment of an independent auditor and other service providers; and
v. appointment of a director employed by the fund manager.

The fund operation depends on prior registration with the CVM, which should be filed with the fund's tax reference number (CNPJ), along with the documents above.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Fund (Contractual agreement between investors and fund manager)	No

Legal form
The FII is not a legal person but rather a contractual agreement between investors and a fund manager. The FII is close-ended with limited or unlimited duration.

Minimum initial capital
There is no minimum initial capital requirement. Investors will be issued with fund units which may be acquired with cash or in exchange for contributions of real estate or *in rem* rights.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
Construction companies may not hold more than 25% interest in an FII	No

Unit holder requirements

Construction companies involved in the activities invested in by the FII may hold a maximum 25% interest in the FII. Where the 25% threshold is breached, the FII will lose its tax benefits and suffer tax as an ordinary corporation for income tax purposes.

Unit holders may be individuals or legal entities in Brazil or abroad and there is no discrimination between Brazilian and foreign investors.

Listing requirements

FII units are tradable securities and may be traded on the Stock Exchange or on the private 'over-the-counter' market.

The FII does not allow redemption of units, so units can only be sold in the open market through the Stock Exchange or over-the-counter.

Where the duration of the FII is not determined, capital can only be returned to unit holders through an unanimous decision of the unit holders.

2.4 Asset level / activity test

Restrictions on activities / investments
The minimum real estate investment was previously set at 75% of an FII's total assets, although this requirement has been revoked by ICVM 472/08 effective from December 03, 2008 New regulations set out a list of authorised investments

Under the regulatory rules applicable before ICVM 472/08 (which became effective on December 03, 2008), FIIs were required to invest at least 75% of their total assets in real estate. ICVM 472/08 has revoked all previous regulation applicable to FIIs. However, it has not introduced a new requirement of a minimum level of investment into real estate. Instead, it has introduced a comprehensive list of real-estate related assets in which an FII may invest (see below). Nevertheless, it is not entirely clear whether FIIs may invest into any type of non-real estate assets (e.g. bonds, fixed-income funds etc) under the new regulations.

Under ICVM 472/08, an FII can hold the following assets:

I any rights *in rem* on real estate (e.g. freehold or leasehold);
II stock, debentures, subscription warrants, subscription receipts and similar securities, provided their issuance or trade was registered with or authorised by the CVM, as well as any other securities, whose issuers have activities predominantly allowed to the FII;
III shares in companies whose sole purpose fits into the activities allowed to the FII;
IV shares in private equity investment funds (FIP) where the investment policy of the FIP relates only to activities allowed to the FII or shares in stock investment funds (FIA) which are divided into sectors and exclusively undertakes property development or investment activities;
V some types of construction certificates;
VI units in other FIIs;
VII mortgage-backed securities and shares in CVM-registered investment funds in credit rights (FIDC) where the investment policy of the FIDC relates only to activities allowed to an FII;
VIII mortgage bills; and
IX real estate credit bills.

A FII which predominantly invests in securities should observe the investment limits per issuer and type of financial assets set out in ICVM 409/2004.

2.5 Leverage

Leverage
No leverage restrictions applicable

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
At least 95% of income arising on a cash basis	At least 95% of capital gains arising on a cash basis	Every six months

Operative income
At least 95% of the net operating income must be distributed bi-annually (June 30 and December 31).

Capital gains
At least 95% of the capital gains must be distributed bi-annually (June 30 and December 31). This requirement only applies to capital gains recognised on a cash basis.

2.7 Sanctions

Penalties / loss of status rules
Loss of tax exemption

Construction companies involved in the projects invested in by the FII may not hold more than 25% interest in the FII. Where this condition is breached, the FII will be taxed as a corporation for income tax purposes (34%).

Further sanctions by the CVM may be applicable on a case-by-case basis.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
- Income from real estate activities is tax-exempt - Income from other activities is subject to withholding income tax	Capital gains are treated as income from real estate activities and therefore tax-exempt	Withholding tax suffered by the FII may be set against tax on distribution to investors

Current income
Income from real estate activities (e.g. rental income or income from certain real-estate related securities) is tax-exempt.

Income from fixed-income and variable-income investments is subject to withholding income tax. Exception is made to some particular securities such as Mortage Note (Letras Hipotecárias), Housing Financing (Letras de Crédito Imobiliário) and Agricultural Warrant (Warrant Agropecuário) and others.

This withholding tax may be offset against the withholding tax payable on profits distribution to unit holders.

Capital gains
Capital gains are treated as income from real estate activities and therefore tax-exempt.

Withholding tax
Earnings from investments in fixed income are subject to withholding tax at a rate between 15% and 22.5%, depending on the length of the holding of the investment, and it can be set against tax payable on profits distribution from the FII.

Earnings from investments in variable income are taxed at a rate between 15% and 20% and can be offset against tax payable on profits distribution.

Other taxes
Transfers of real estate to an FII are subject to a real estate transfer tax (ITBI) imposed by the municipality in which the property is located. The rates vary according to the location and value of the property.

The ownership of property in Brazil is also subject to an annual property tax (IPTU) applied by the municipalities. Again in this case, the rates vary according to the municipality in which the property is located.

Accounting rules
The FII must produce its own financial statements, and its accounts should be segregated from the fund manager's. The financial statements should be produced under Brazilian GAAP, which is now in line with IFRS for consolidated financial statements.

The accounting period must have 12 months and the financial statements must be published within 90 days of the end of the accounting period.

The preparation of financial statements must:
- observe the specific rules provided by CVM;
- be audited annually by an independent auditor; and
- observe the rules governing the exercise of that activity.

3.2 Transition regulations

Conversion into REIT status
N/A

Existing entities cannot be converted into FIIs.

3.3 Registration duties

Registration duties
Municipal real estate transfer tax (ITBI) applicable

Transfers of real estate to an FII are subject to a real estate transfer tax (IBTI) imposed by the municipality in which the property is located. The rates vary according to the location and value of the property.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- Withholding income tax at 20% on distributions from the FII or capital gains on the disposals of units in the FII	- Withholding income tax at 20% on distributions from the FII or capital gains on the disposals of units in the FII. Income may be exempt from withholding tax if special conditions are met	- Corporate unit holders may credit for withholding tax applied by the FII on distributions

Corporate unit holder
Withholding income tax at 20% on distributions made by the FII to companies resident in Brazil and on capital gains arising from the disposal of units in the FII. The withholding tax can be offset against the unit holder's own corporate income tax liability.

Individual unit holder
Final withholding income tax at 20% on distributions made by the FII to individuals resident in Brazil and on capital gains arising from the disposal of units in the FII.

The Law 11.033/2004 sets out that individuals may be exempt from withholding tax on income provided:

- Units are negotiated exclusively on the stock exchange or over-the-counter;
- The fund has at least 50 unit holders;
- The individual benefitting from the tax exemption does not hold 10% or more of the fund's units, or is entitled to more than 10% of the fund's earnings.

Withholding tax

Corporate unit holders may credit for withholding tax applied by the FII on distributions and capital gains. However, for individual unit holders who do suffer withholding tax (i.e. individual unit holders who are not compliant with Law 11.033/04) there is no tax credit and the withholding tax is final.

4.2 Foreign Unit holders

Corporate unit holder	Individual unit holder	Withholding tax
- Withholding tax at 20% as a general rule. - Withholding tax at 15% on income, providing certain conditions are met - Capital gains at 0%, providing certain conditions are met	- Withholding tax at 20% as a general rule. - Withholding tax at 15% on income, providing certain conditions are met - Capital gains at 0%, providing certain conditions are met	Questionable whether tax treaty relief available

Corporate unit holder

Withholding tax at 15% on income and capital distributions made by the FII where the foreign investment is registered with the Brazilian Central Bank (*Resolução 2.689*) and the beneficiary is not resident in a low-tax jurisdiction.

Capital gains arising to the foreign unit holder from the disposal of units in the FII are not subject to tax in Brazil provided:

i. the unit is traded on the stock exchange;
ii. the investment is registered with the Brazilian Central Bank; and
iii. the beneficiary is not resident in a low-tax jurisdiction.

In the event that the conditions above are not met, withholding tax will apply at 20%.

Individual unit holder

The same beneficial tax rates as described above (corporate unit holder) apply to individuals providing the conditions are met.

Withholding tax

It is still not clear whether non-resident unit holders in a Brazilian FII may be able to rely on double tax treaties to further reduce the rate of withholding tax on distributions made by the FII. As the legal nature of the FII is a contractual relationship between the fund manager and the investors, the Brazilian tax authorities may argue that the FII is not a 'person' for the purposes of applying double tax treaties.

5 Tax treatment of foreign REIT and its domestic unit holders

Foreign REIT	Corporate unit holder	Individual unit holder
Taxed with 15% withholding tax on income and capital gains	Income and capital gains arising to a corporate unit holder taxed at 34% (40% if the beneficiary is a financial institution, insurance or related company)	Income and capital gains arising to an individual unit holder taxed at rates from 7.5% to 27.5%

Foreign REIT

A foreign REIT is only taxable in Brazil in respect of its income arising from a Brazilian source (e.g. rental income or capital gains related to a Brazilian property). Such income will be subject to 15% withholding tax in Brazil.

Corporate unit holder

Income (including capital gains) arising from a foreign REIT to a corporate unit holder resident in Brazil is subject to Brazilian tax at a combined rate of 34% (40% if the beneficiary is a financial institution, insurance or related company). Any withholding tax suffered by the Brazilian unit holder on the distribution from the foreign REIT may be set against the Brazilian unit holder's own tax liability in Brazil, limited to the amount of Brazilian tax due on such distributions.

It is not clear whether the Brazilian resident investor may also claim a credit for any other underlying taxes suffered by the foreign REIT (e.g. withholding tax on rental income).

Individual unit holder

Income (including capital gains) arising from a foreign REIT to an individual unit holder resident in Brazil is subject to Brazilian tax at rates varying from 7.5% to 27.5% (in practice, individual investors in foreign REITs are likely to be higher-rate taxpayers so the 27.5% should apply). Any withholding tax suffered by the Brazilian unit holder on the distribution from the foreign REIT may be set against the Brazilian unit holder's own tax liability in Brazil.

It is not clear whether the Brazilian resident investor may also claim a credit for any other underlying taxes suffered by the foreign REIT (e.g. withholding tax on rental income). ■

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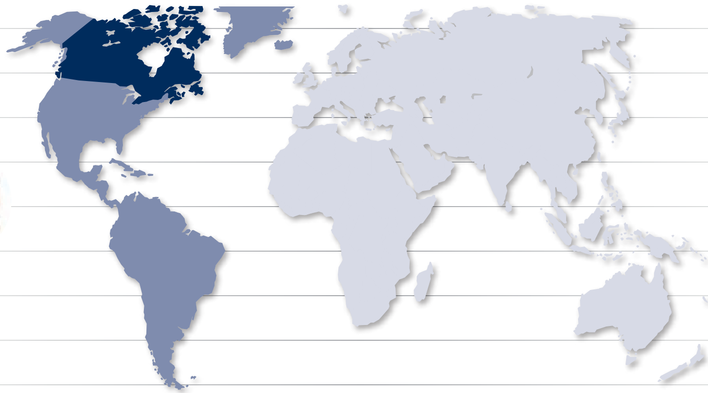

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1 General introduction

	Enacted year	Citation	REIT type
MFT	1994	Income Tax Act	Trust type

The specified investment flow-through rules ('SIFT Rules'), enacted in 2007 and amended in 2009, have had a significant negative impact on non-qualifying REITs and their unit holders, by making them subject to entity-level tax. However, 'real estate investment trusts' (as specifically defined for this purpose) are exempted from the SIFT Rules. While the exception, as originally enacted, was too narrow for some Canadian REITs, the exception has been broadened so that more REITs can benefit from it.

Canadian REITs may qualify as 'mutual fund trusts' (MFTs) under the ITA for which there are comprehensive and detailed rules. A MFT provides for a flow through of income, dividends and capital gains and, in addition, has many tax benefits associated with vehicles that are qualified for distribution to the public, which are not available to trusts that do not qualify as MFTs.

The MFT regime is governed by the ITA, and generally a MFT that is a REIT is not a mutual fund under applicable securities legislation. As a publicly traded vehicle, a MFT is subject to provincial securities legislation.

Amendments to the ITA which received Royal Assent on June 22, 2007 (the SIFT Rules) introduced significant changes to the federal income tax treatment of publicly-traded trusts (such as income trusts and certain REITs) and partnerships. The changes were originally announced on October 31, 2006. The amendments apply to a publicly-traded trust or partnership that is a specified investment flow-through entity (a SIFT) (subject to an exception for certain REITs discussed below) and its investors. Further technical amendments to the SIFT Rules were announced on July 14, 2008 and received Royal Assent on March 12, 2009.

The SIFT Rules generally do not apply to a publicly traded trust that qualifies as a 'real estate investment trust' (as defined in the SIFT Rules) throughout a taxation year (the 'REIT Exception'). For purposes of the SIFT Rules, a trust will be a 'real estate investment trust' for a particular taxation year if:

- the trust is resident in Canada throughout the taxation year;
- the trust at no time in the taxation year holds any 'non-portfolio property' other than 'qualified REIT properties'. In general, non-portfolio property includes (a) securities of a 'subject entity' (other than a 'portfolio investment entity') that have a total fair market value that is greater than 10% of the equity value of the subject entity or have a total fair market value that is greater than 50% of the equity value of the trust; (b) a Canadian real, immovable or resource property, if at any time in the taxation year the fair market value of all such properties held by the trust is greater than 50% of the equity value of the trust; or (c) a property that the trust, or a person or partnership with whom the trust does not deal at arm's length, uses in the course of carrying on a business in Canada;
- not less than 95% of the trust's revenues for the taxation year are derived from one or more of the following: (i) 'rent from real or immovable properties' (as defined in the SIFT Rules), (ii) interest, (iii) capital gains from dispositions of 'real or immovable properties' (as defined in the SIFT Rules), (iv) dividends, and (v) royalties (the "revenue test");
- not less than 75% of the trust's revenues for the taxation year are derived from one or more of the following: (i) rent from real or immovable properties, (ii) interest from mortgages, or hypothecs, on real or immovable properties, and (iii) capital gains from dispositions of real or immovable properties; and
- at all times in the taxation year an amount, that is equal to 75% or more of the equity value of the trust at that time, is the amount that is the total fair market value of all properties held by the trust each of which is 'real or immovable property', indebtedness of a Canadian corporation represented by a bankers' acceptance, property described by either paragraph (a) or (b) of the definition "qualified investment" in section 204 (i.e. generally, certain deposits with financial institutions or certain government debt), or a deposit with a credit union.

For purposes of the REIT Exception, 'qualified REIT property' of a trust means a property held by the trust that is:

a. a 'real or immovable property';
b. a security of a 'subject entity', if the entity derives all or substantially all of its revenues from maintaining, improving, leasing or managing real or immovable properties that are capital properties of the trust, or of an entity of which the trust holds a share or interest, including real or immoveable properties that the trust, or of an entity of which the trust holds a share or interest, holds together with one or more other persons or partnerships;
c. a security of a 'subject entity' if the entity holds no property other than
   i. legal title to real or immovable property of the trust or of another subject entity all of the securities of which are held by the trust (including 'real or immovable property' that the trust or the other subject entity holds together with one or more other persons or partnerships), and
   ii. property described in paragraph (d); or
d. ancillary to the earning by the trust of rent from, and capital gains from the disposition of, 'real or immovable property'.

'Real or immovable property' includes a security of an entity held by the taxpayer that would itself satisfy the REIT Exception if such entity were a trust or an interest in real property or a right in immovables, but does not include any depreciable property, other than (i) a property included, otherwise than by an election permitted by regulation, in Class 1, 3 or 31 of Schedule II to the Income Tax Regulations (generally buildings), (ii) a property ancillary to the ownership or utilisation of a property described in (i), or (iii) a lease in, or a leasehold interest in respect of, land or property described in (i).

Most Canadian hotel and seniors living REITs do not qualify for the REIT Exception due to their operations being active rather than passive in nature, and, accordingly, such REITs generally became subject to entity-level tax beginning in 2011 unless they successfully undertook significant restructuring (see below).

As a result of the technical amendments to the SIFT Rules, which were enacted on March 12, 2009, many REITs required no, or significantly less, restructuring in order to qualify for the REIT Exception. However, Canadian REITs that did not qualify for the REIT Exception under these new rules were forced to re-structure before 2011 if they wished to qualify for the REIT Exception in 2011, when the transitional period for the new SIFT tax ended. The amendments announced in July 2008 and enacted in March 2009 also included rules to facilitate the conversion of certain REITs into corporations on a tax deferred basis until 2013. Broadly, these rules allow a REIT to become a subsidiary of a corporation, or reorganise its subsidiary entities under a corporation and distribute the shares of that corporation to its unit holders.

Proposed amendments to the REIT Exception criteria were announced on December 16, 2010 as follows:

- Only 90% of the fair market value of a REIT's non-portfolio property will be required to be qualified REIT property.
- REITs will be restricted from holding inventory real estate, unless it is held by an entity in which the REIT holds a security and unless certain other tests (see below) are satisfied.
- The type of real estate managed by property management entities will be extended to certain development properties.

  For the purposes of the "revenue" threshold tests, the relevant tests will be modified to be based on "gross REIT revenue" which will include amounts that are received or receivable other than amounts on account of capital, and capital gains. The definition of revenue also makes it clear that recapture of depreciation is not included in revenue. Further, the amount of revenue that must be from rent, capital gains from the disposition of real or immovable property, interest, dividends and royalties will be reduced from 95% (under the current rules) to 90% of the trust's total revenue for the taxation year. For purposes of this test, qualifying revenue will include a gain from the disposition of an "eligible resale property" which is real or immoveable property that is:

  a. Not capital property, i.e. property that is held for resale ;
  b. Held by an entity in which the REIT holds a security;
  c. Contiguous to real property, that is capital property of the entity, or another entity in which the REIT holds a security; and
  d. Necessary and incidental to the holding of that particular real or immoveable property.

that an example of an eligible resale property may be a severed portion of a commercial rental property of the REIT that is sold to an anchor tenant that wishes to own and use the severed property.

The explanatory notes provided by the Department of Finance indicate that an example of an eligible resale property may be a severed portion of a commercial rental property of the REIT that is sold to an anchor tenant that wishes to own and use the severed property.

- Amounts of income payable by a subsidiary trust to its parent trust,will be deemed to maintain their source character for the parent trust.where it is included in the parent trust's gross REIT revenue. This proposal should resolve some of the uncertainty related to the character of revenue as it flows through a consolidated group.
- Foreign currency gains included in the REIT's gross revenue and realized in respect of:
  - qualifying sources of REIT revenue (such as rental revenue from real or immovable property situated outside Canada) will be treated as qualifying REIT revenue; and
  - debt incurred for the purpose of earning revenue from a qualifying source of REIT revenue (e.g. Euro-denominated debt incurred by the REIT to acquire real or immovable property in a European country from which the REIT earns rental revenue) will also be treated as qualifying REIT revenue.

- Amounts included in the REIT's gross revenue and received under, or as a result of, an arrangement that hedges risk stemming from fluctuations in foreign currency related to sources of revenue in respect of real or immoveable property situated outside Canada would also be treated as qualifying REIT revenue.

The amendments are proposed to be effective for 2011 and subsequent taxation years. The amendments may also be effective for taxation years after 2006 if an election is filed on or before the REIT's filing due date for the taxation year during which the proposed amendments are enacted. The enactment of the proposed amendments has been delayed due to the dissolution of Parliament and the calling of a federal election scheduled for May 02, 2011.

Despite the amendments to the rules , a number of Canadian publicly traded REITs have been able to meet the REIT exemption criteria either through purification of operations or through restructuring. Those who failed to meet the REIT exemption criteria, will be subject to the entity level SIFT tax.

As previously mentioned, hotel and seniors living REITs generally do not qualify under the new rules amendments. One potential structure that has been implemented by three of the REITs in this sector to deal with their non-qualifying status is a stapled REIT structure. Such structures consist of one entity that would qualify for the REIT Exception and one entity that is a taxable entity that would hold the non-qualifying property.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance- 12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Canada	35	25,3	26,7	4,7%

Top five REITs

Company Name	Market cap (€m)	Sector type
RioCan Real Estate Investment Trust	4,919	Office, Retail
H&R Real Estate Investment	2,504	Industrial, Office, Retail
Calloway Real Estate Investment Trust	2,171	Industrial, Office, Retail
Boardwalk Real Estate Investment Trust	1,901	Residential
Canadian Real Estate Investment Trust	1,627	Industrial, Office, Retail

2 Requirements

2.1 Formalities / procedure

Key requirements
Election in tax return.

Generally, a trust will not meet the requirements of a MFT at the time of its formation because of the distribution requirements discussed below. If a trust qualifies as a MFT before the 91st day after the end of its first taxation year, and elects in its tax return for that year, the trust will be deemed to be a MFT from the beginning of its first taxation year.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Unit trust	No

Legal form

In Canada, the MFT has developed into the most popular publicly traded investment vehicle for Canadian real estate investment. While other tax-efficient vehicles have been considered, the MFT provides the most favourable tax treatment. All Canadian provincial jurisdictions with the exception of the Maritimes, Nunavut, Northwest Territories and the Yukon have enacted statutes providing a statutory limitation on the liability of unit holders of MFTs (including REITs), as discussed below.

The trust indenture or agreement for a REIT will generally provide that no unit holder will be subject to any liability in connection with the REIT or its obligations and affairs and, in the event that a court determines unit holders are subject to any such liabilities, the liabilities will be enforceable only against, and will be satisfied only out of the REIT's assets.

The *Income Trusts Liability Act* (Alberta) came into force on July 01, 2004. The legislation provides that a unit holder of a trust created by a trust instrument governed by the laws of Alberta, and that is a 'reporting issuer' under the *Securities Act* (Alberta) will not be, as a beneficiary, liable for any act, default, obligation or liability of the Trustee that arises after the legislation came into force. The *Investment Trust Unitholders' Protection Act* (Manitoba), which came into force on June 16, 2005, the *Income Trust Liability Act* (British Columbia), which came into force on March 30, 2006 and the *Income Trust Liability Act* (Saskatchewan), which came into force on May 19, 2006, contain similar provisions. Ontario has a substantially identical provision.

The *Quebec Civil Code* also provides for the limitation of beneficiary liability for the acts of the trustees of a trust in absence of fraud.

Minimum initial capital

No minimum initial capital required.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
- Minimum of 150 unit holders each of whom holds not less than one 'block of units' and having an aggregate fair market value of not less than CAN$ 500. - Generally, MFTs cannot be established or maintained primarily for the benefit of non-residents of Canada.	Required to avoid redemption right of unit holders.

Unit holder requirements

The Canadian rules applicable to MFTs require that there be at least 150 unit holders each of whom holds not less than one 'block of units' which have a fair market value of not less than CAN$500. The number of units required in a block will depend on its fair market value (e.g. 100 units, if the fair market value of one unit is less than CAN$ 25). There are rules which deem a 'group' of persons holding units to be one person for purposes of determining whether there are 150 unit holders. In addition, a class of units of the trust must be "qualified for distribution to the public", which is defined to include a lawful distribution in a province to the public of units of the trust in accordance with a prospectus or similar document.

Listing requirements
Units must be listed on a designated stock exchange in Canada to avoid the requirement that the units be redeemable at the demand of the holder.

In general, to qualify as a 'unit trust' (where the units are not redeemable on demand by the holder), the following requirements in respect of property ownership and income must be satisfied:

- At least 80% of its property consisted of any combination of
  a. shares,
  b. any property that, under the terms or conditions of which or under an agreement, is convertible into, is exchangeable for or confers a right to acquire, shares,
  c. cash,
  d. bonds, debentures, mortgages, hypothecary claims, notes and other similar obligations,
  e. marketable securities,
  f. real property situated in Canada and interests in real property situated in Canada (which would include leasehold interests),
  g. rights to and interests in any rental or royalty computed by reference to the amount or value of production from a natural accumulation of petroleum or natural gas in Canada, from an oil or gas well in Canada or from a mineral resource in Canada, and
- not less than 95% of its income was derived from, or from the disposition of, investments described in (a) through (g) above; and
- not more than 10% of its property consisted of bonds, securities or shares in the capital stock of any one corporation or debtor other than Her Majesty in right of Canada or a province or a Canadian municipality.

2.4 Asset level / activity test

Restrictions on activities / investments
- The investing in property (other than real property or an interest in real property) is allowed. - The acquiring, holding, maintaining, improving, leasing or managing of any real property (or interest in real -property) that is capital property of the trust is allowed. - Any combination of the foregoing activities.

To qualify as a MFT, the only undertaking of a trust must be:

- the investing of its funds in property (other than real property or an interest in real property or an immovable or a real right in an immovable);
- the acquiring, holding, maintaining, improving, leasing or managing of any real property (or interest in real property) or of any immovable (or real right in immovables) that is capital property of the trust; or
- any combination of the foregoing activities.

A MFT generally may not carry on a business. Consequently, a MFT may not engage in trading in real estate and may not directly operate hotels or nursing homes, which are considered businesses. In the case of hotel and nursing home MFTs, the MFT normally owns the real property and establishes one or more subsidiaries which carry on the particular business. The MFT may finance the subsidiary with debt to purchase the business, and normally leases the real estate to the subsidiary to enable it to operate the business. The subsidiary normally has minimal income tax liabilities as a result of deductions of rent and interest payable to the MFT.

2.5 Leverage

Leverage
N/A

The ITA does not impose limits on leverage of a MFT. It is common for there to be limitations as a matter of investment policy set out in the declaration of trust establishing the MFT, and disclosed in the prospectus.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
All income of the MFT for a taxation year is paid or payable to unit holders in the year so that MFT does not incur tax.	All capital gains are paid out and retain their character as such in the hands of unit holders, provided a designation is made by the MFT.	All income must be paid or recognised as a payable in the taxation year of the MFT. If it is payable then the amount can be paid out later.

Operative income
A MFT is not required by the ITA to pay out all of its income and capital gains. However, this is the invariable practice, as a trust may deduct in computing its income for a taxation year all income paid or payable to unit holders in such year with any remaining income being subject to income tax at the highest marginal personal income tax rate at the trust level. An amount will be 'payable' to a unit holder in a taxation year if the unit holder was entitled in the year to enforce payment. The declaration of trust establishing a MFT normally includes provisions ensuring that the income is 'payable' so the MFT may deduct amounts of income it has not actually paid out by the end of its taxation year.

Capital gains
See above.

2.7 Sanctions

Penalties / loss of status rules
Loss of MFT status.

If a REIT loses its MFT status, there will be several negative consequences including the following:

a. The REIT will be subject to a special 36% tax on its 'designated income', which includes income from real property in Canada and taxable capital gains from dispositions of real property in Canada and any other 'taxable Canadian property';
b. Units of the REIT will become 'taxable Canadian property', with the result that non-residents would generally be taxable in Canada on any gain from disposition of such units, and such dispositions by non-residents would become subject to reporting and withholding requirements;
c. Units of the REIT will generally cease to be qualified investments for certain deferred income plans, such as 'registered retirement savings plans'; and
d. Transfers of REIT units may give rise to land transfer taxes if the REIT owns real property in certain provinces such as Ontario.

For these reasons, it is considered critical for a REIT to maintain its MFT status. There are special rules that may deem a REIT to retain its MFT status for the balance of the year where such status is lost midway through the year.

3 Tax treatment at level of the REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
A MFT is entitled to deduct in a year all income determined for purposes of the ITA paid or payable to unit holders in the year so it may reduce its net taxable income to nil.	Capital gains follow the same system for income, except only 50% of a capital gain (a 'taxable capital gain') is included in income and 50% of a capital loss can be applied to offset taxable capital gains.	Credit or refund of foreign withholding tax possible.

Current income
A MFT is not exempt from income tax under the ITA. Rather, a MFT computes its income in the same manner as any other resident of Canada, and is entitled to deduct in computing its income for a taxation year all income paid or payable to a unit holder in such taxation year. Consequently, distributions by a MTF are effected on a pre-tax basis. A MFT cannot flow through any losses to unit holders.

The tax treatment of distributions to unit holders of a MFT will generally depend on their characterisation for purposes of the ITA and the residency of the unit holder. As a result of the 2004 federal budget, there were changes to the withholding tax rules that specifically impact REITs, as discussed below. As noted above, the SIFT Rules may apply an entity level corporate-style tax on certain REITs that do not qualify for the REIT Exception. Publicly traded MFTs in existence at October 31, 2006 that did not qualify for the REIT Exception at that date were exempt from this tax until 2011 subject to having remained within certain growth limits.

Capital gains

Only 50% of a capital gain realised is, in principle, taxed as a taxable capital gain, unless this income is distributed to unit holders during that taxation year, in which case the value of the distribution is deducted from taxable profits (as described above). The other 50% is completely exempt from income tax, whether distributed or not. 50% of a capital loss can be applied as an allowable capital loss to reduce or eliminate taxable capital gains in any of the three years preceding the year or any year following the year in which the taxable gains were realised. The other 50% cannot be applied as an allowable capital loss.

Withholding tax

If a REIT invests outside Canada, it may be subject to foreign income and withholding taxes. Provided the REIT makes the appropriate designation, investors in the REIT can generally claim a foreign tax credit for the foreign taxes when the related foreign source income is distributed by the REIT. Alternatively, the REIT may deduct such foreign taxes in computing its own income in some circumstances.

Other taxes

As legal entities that are organised as trusts, REITs are generally not subject to provincial capital taxes. In any case, almost all provinces have eliminated capital taxes.

REITs are subject to provincial and municipal land transfer taxes in respect of acquisitions of real property. For instance, the provincial rate in Ontario is generally 1.5% of the value of the consideration, with possible additional municipal land transfer taxes.

Canada has both federal (GST) and provincial sales tax regimes. The federal GST rate is 5%. Ontario, BC, Quebec and the Maritime provinces have harmonised their provincial sales tax rules with the federal GST. This has increased the amount of non-refundable tax on residential rents in Ontario to 13%, of which the Ontario portion is 8%, and to 12% in BC, of which the BC portion is 7%.

Accounting rules

Canadian entities currently report under Canadian GAAP represented by standards issued by the Accounting Standards Board of Canada (AcSB) and by its interpretations body, the Emerging Issues Committee. The full set of standards is compiled in a comprehensive handbook known as *the Canadian Institute of Chartered Accountants (CICA) Handbook*.

Effective January 01, 2011, all publicly-accountable entities, as defined by the AcSB, will be required to report financial statements in accordance with IFRS, as issued by the IASB. Certain entities that meet specific requirements of the Canadian securities regulators may adopt IFRS early, commencing January 01, 2009. Therefore, at minimum, all publicly traded REITs in Canada, will be reporting under IFRS for annual periods commencing on or after January 01, 2011.

Accounting Standards for Private Enterprises (ASPE) have been issued for entities that are not publicly-accountable entities, as defined by the AcSB. The ASPE are a result of taking the standards in the existing *CICA Handbook* and eliminating standards that were not relevant to private enterprises and modifying other standards that had previously been problematic to this sector. Provided a REIT does not meet the broadly worded definition for a publicly-accountable entity, it can choose to follow the ASPE.

3.2 Transition regulations

Conversion into REIT status
N/A

Where a trust owning property commences to qualify as a MFT, there is no deemed or actual disposition of property and therefore no tax payable under the ITA. There are not any rules permitting a tax-deferred transfer of property to a MFT except if there is a qualifying transfer of property to the MFT by another MFT or by a 'mutual fund corporation', and other conditions are satisfied. These latter provisions, in effect, provide for a tax-free merger of MFTs.

Some REITs have established Canadian subsidiaries (or indirectly held partnerships) so that transfers thereto can qualify for a tax deferral. The vendor of property cannot receive non-share (or non-partnership interest) consideration (e.g. cash, debt) which exceeds the tax cost of the transferred property; otherwise, recapture and gain will be triggered. The shares or partnership interests acquired by the vendor are typically exchangeable for units of the MFT. The exercise of such exchangeable shares or partnership units would generally be a taxable event.

3.3 Registration duties

Registration duties
Real estate transfer tax.

Some provinces impose a transfer tax on the acquisition of real estate payable by the purchaser. For instance, the rate in Ontario is generally 1.5% of the value of the consideration.

4 Tax treatment at the unit holder level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Taxable.	Taxable.	N/A

Corporate unit holder/individual unit holder

Income (including the taxable portion of capital gains and dividends) paid or payable by a MFT to unit holders will be included in the income of unit holders resident in Canada (whether individuals or corporations), and will be subject to the normal rules of taxation. The rates of taxation will depend on whether the unit holder is an individual or a corporation and the province of residency. For example, in Ontario, the generally prevailing combined federal-provincial income tax rate for 2011 is 28.25% (which, if certain proposals are enacted, will gradually decline to 25% by 2014) for corporations and 46.4% for individuals.

If a REIT earns taxable dividends from Canadian corporations, provided the REIT makes the appropriate designation, those amounts will retain their character as such when distributed. Unit holders that are corporations will generally be entitled to a full dividends received deduction in respect of such dividends, but may in certain cases be subject to a refundable Part IV tax on the dividends. Unit holders that are individuals will generally be entitled to preferential tax treatment by claiming a dividend tax credit. Distributions of income which are subject to the new entity level SIFT tax discussed above will be considered to be dividends to unit holders.

If a REIT realises capital gains, provided the REIT makes the appropriate designation, those amounts will retain their character as such when distributed. One-half of capital gains are included in income as 'taxable capital gains'.

Distributions by a MFT in excess of income may arise because of non-cash deductions such as capital cost allowance. These distributions provide a form of tax deferral because they reduce the tax cost of the units without immediate taxation unless the tax cost becomes negative.

As noted above, capital gains, dividends and foreign source income will retain their character in the hands of unit holders if appropriate designations are filed. Otherwise, the 'source' of income is treated as income from a trust.

On the disposition of a unit of a MFT, the unit holder will realise a capital gain (or a capital loss) to the extent the proceeds of disposition exceed (or are exceeded by) the aggregate of the tax cost of a unit and any disposition costs.

Withholding tax
There is no withholding on distributions made to residents of Canada.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
To the extent the distribution is made out of the REIT's income, the withholding tax is imposed at a statutory rate of 25%. Tax exemption for capital gains.	To the extent the distribution is made out of the REIT's income, the withholding tax is imposed at a statutory rate of 25%. Tax exemption for capital gains.	Tax treaty relief available.

Corporate unit holder/individual unit holder
Distributions
A foreign unit holder (whether a corporation or an individual) will generally be subject to withholding tax on distributions from a REIT.

To the extent the distribution is made out of the REIT's income, the withholding tax is imposed at a statutory rate of 25%. However, under many treaties, the rate is reduced to 15%.

To the extent the distribution exceeds the REIT's income, the ITA provides for a 15% tax if the REIT is a 'Canadian property mutual fund investment' – which essentially means that more than 50% of the value of the REIT's units is attributable to Canadian real property or resource property.

All MFTs, including REITs, are required to keep track of their net capital gains from disposals of 'taxable Canadian property' in a 'TCP gains distributions account'. For example, if the REIT realises a gain on disposal of a Canadian real property investment, the full amount of that capital gain will be added to the TCP gains distribution account (despite the fact that only one-half of the capital gain is included in taxable income of the REIT). When the REIT makes a distribution to a foreign investor, the distribution is treated as coming out of the balance, if any, in the TCP gains distribution account, and any portion of the distribution that would otherwise have escaped Canadian withholding tax is subject to a 15% withholding tax.

Capital gains
Foreign unit holders (whether corporations or individuals) will generally not be subject to Canadian tax on gains from disposals of REIT units provided an ownership test is met. In particular, the unit holder must not own 25% or more of the REIT's outstanding units at any time during the 60 months preceding the disposal.

5 Tax treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Taxed on Rental income and Gains.	Fully taxable.	Fully taxable.

Foreign REIT

A foreign REIT generally will be subject to the normal Canadian tax rules applicable to other foreign investors in Canada, including the following:

- rental income earned by a foreign REIT from Canadian real estate will generally be subject to a 25% withholding tax, levied on gross rentals;
- gains realised from a disposal of Canadian real estate by a foreign REIT will be subject to Canadian tax.

In many cases, foreign REITs acquire Canadian properties through special purpose corporations, unlimited liability companies or trusts. Through the use of leverage, both internal and external, it is normally possible to reduce or, in some cases, eliminate Canadian tax on rental income. Canada's tax treaties generally permit Canada to tax capital gains realised by foreign investors, including REITs, from disposals of real property in Canada or shares of Canadian companies whose value is derived principally from real property in Canada, although certain treaties provide an exemption in the case where the real property is used in a business of the company.

Corporate unit holder

A corporate unit holder of a foreign REIT will generally be required to include in income any distributions received, whether or not those distributions were sourced from income generated in Canada.

Individual unit holder

An individual unit holder of a foreign REIT will generally be required to include in income any distributions received, whether or not those distributions were sourced from income generated in Canada. ■

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(FII)

Global REIT Survey 2011

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EPRA REPORTING

European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type
FII	1989 and modified in 2000 and in 2007	- Law No. 18,815 on Investment Funds - Decree No. 864	Fund type

A REIT-like regime called *Fondos de Inversion Inmobiliario* (Real Estate Investment Fund, or FII) exists under Chilean law under which the FII is not subject to corporate level taxes. FII investors are subject to tax on the dividends received from the FII and are subject to general rules with respect to the gains/loss derived from the transfer of their quotas.

FIIs are specifically regulated by Law No. 18,815 on Investment Funds published in the *Official Gazette* on July 29, 1989 as amended and by administrative regulations contained in Decree No. 864 published on February 23, 1990. This law and its regulations deal in general with investment funds, and specifically with real estate investment funds.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Approval of the fund by the Chilean Securities Commission. - Management by a Chilean corporation.

The Chilean Securities Commission *(Superintendencia de Valores y Seguros*, or *SVS)* must approve the internal rules of public investment funds, the agreements between the fund and its investors and their amendments.

Funds must be managed by an entity that has to be organized as a special Chilean corporation in Chile *(sociedad anónima especial)*. The fund manager is subject to the regulation of the SVS, and their existence must also be authorised by the SVS. Its business activity is limited exclusively to the administration of investment funds and is required to have a minimum paid-in share capital in cash of UF 10,000 (USD 470,000 approximately).
Notwithstanding the aforementioned, these companies may include within their object the administration of foreign capital investment funds regulated by the Law No. 18,657 and other complementary activities authorised by the Chilean Securities Commission.

Private funds may be organised without the approval of the SVS, and may be managed by a regulated or unregulated corporation.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Unincorporated entities.	- No initial requirement. - After one year, UF 10,000.

Legal form

Funds may only be organised as unincorporated entities (i.e. do not have the status of a separate legal entity) which are formed by the contributions made by individual and corporate investors.

Minimum initial capital

There is no minimum initial capital required, although the law requires that after a year from the commencement of the fund's operations its total equity must be at least an amount expressed in units of an indicator indexed for inflation called *Unidad de Fomento* or UF. This minimum total equity amount is UF 10,000, which is equivalent to approximately USD 470,000.

If this obligation is not met, the SVS has to be notified by the managing corporation and the fund has 180 days (renewable for another 180 days) to reach the minimum equity requirement. If the situation has not been amended, the fund must be liquidated.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
- Private FIIs: less than 50 members. - Listed FIIs: at least 50 members or one institutional investor.	No

Unit holder requirements

The existence of private investment funds is allowed, but they cannot have 50 or more members. If a private fund reaches 50 or more members, it will be treated as a listed fund and subject to the same rules and requirements.

The requirement for other funds is that after one year from the approval by the Chilean Securities Commission of the fund's internal regulations , it must permanently have at least 50 members unless an institutional investor is member of the fund. In the latter case, just a single institutional investor is required.

The managing entity, persons or entities related to it and employees of the managing entity may not own individually or considered together more than 40% of the units of the fund that it manages. Any amount owned in excess of 25% would not have any voting rights in the fund's unit holders meetings. They would be required to dispose of their excess units, within the term set by the Chilean SEC and may be subject to administrative penalties imposed by the Chilean SEC. These restrictions do not apply to private FIIs.

FIIs, whether public or private, cannot conduct operations between themselves unless managed by unrelated entities.

Listing requirements

In case of listed funds, the investment or participation quotas must be publicly traded securities registered with the Chilean SEC and in at least one local or foreign Securities Exchange Market. Quotas are not redeemable, except in case of liquidation of the fund.

2.4 Asset level / activity test

Restrictions on activities / investments
- Real estate (til 2012). - Subsidiaries allowed. - Quotas or rights in real estate cooperatives. - Development allowed.

There are no specified limits concerning the value of the real estate assets of the REIT.

As mentioned, the law authorising the existence of the FII was introduced in 1989. However, initially they were only authorised to invest in urban real estate located in Chile, marketable mortgage notes, and real estate corporations which are a specially regulated type of corporation. In 1994, an amendment authorised investments in other types of corporations whose sole business purpose is to participate in the real estate business and in real estate located outside of Chile. Another amendment in 2000 added the possibility of investing in quotas or rights in real estate cooperatives.

Law No. 20,190 published in the Official Gazette on June 05, 2007, amended section number 5 of Law No. 18,815, eliminating the possibility of investing in: real estate, located in Chile or abroad, or investing in coop quotas or rights.

The provisions of number 4 of section 8 of Law N° 20,190, shall rule from January 01, 2012. In the event that to January 01, 2012 funds have not adjusted their asset and investment portfolio according to this amendment, it will be necessary to proceed without delay to liquidate the respective fund.

The law enumerates the specific assets in which the FII may invest, but does not impose any restrictions on the permitted activities of the FII. In fact, due to the perception that certain abuses of the system existed, particularly with real estate developers were using real estate investment funds to conduct construction and sale activities, the aforementioned amendment to the Investment Fund Law was introduced. A FII cannot hold shares in another FII if both are managed by the same managing entity. No specific consequence has been contemplated for this.

FIIs are allowed to hold shares and interest in subsidiaries or partnerships, as long as the subsidiary's financial statements are externally audited.

2.5 Leverage

Leverage
Liabilities may not exceed the limit set by the internal rules of the fund.

Liabilities may not exceed the limit set by the internal rules of the fund..

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
At least 30% of the fund's annual profits.	At least 30% of the fund's annual profits.	Annually

Operative income
At least 30% of the FII's annual profits must be distributed each year. Distributions must be paid within 30 days following the members' annual meeting that approves the FII's financial statements. Provisional distributions in advance of final distributions are allowed.

Capital gains
No distinction is made between capital gains and operative income when calculating the fund's annual profits, at least 30% of which must be distributed each year.

2.7 Sanctions

Penalties / loss of status rules
Loss of FII status and liquidation possible.

If the FII invests in non-authorised assets, it will lose its status and must be dissolved and liquidated. Gains derived from the redemption in case of a liquidation of the fund are exempt from corporate taxes in case of cash-basis investors, although may be subject to personal income taxes or dividend withholding taxes. In case of accrual-method investors, the redemption is subject to tax under general rules.

The Law does not provide for any specific consequence if the profit distribution obligation is not complied with. The fund may lose its status, become subject to corporate tax on its accrued income, or even be dissolved and liquidated. Where membership in the fund falls below the 50 member requirement, the fund has six months to remedy this infringement. If the minimum membership is not met, the fund will be dissolved and liquidated.

The management company must report this situation at the next labor day. The six-month period may be suspended in case the unit holders meeting, looking forward to increase the number or the interest of a institutional, agrees to increasing the capital fund by issuing new shares, resuming once being entered in the Register of Values..

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Tax-exempt.	Tax-exempt.	N/A

Current income
FIIs are not subject to income tax on their income. For purposes of distributing profits, 'income' is defined as the net received benefits which comprise the sum of profits, interest, dividends and capital gains effectively received during the calendar year (cash basis) less the losses and expenses accrued during the same calendar year.

The special income tax exemption is applicable only to corporate income taxes, which would otherwise be applicable on the investment income earned by the fund. Special treatment could also be available with respect to capital gains tax on the sale of the quotas in the fund, or their redemption upon liquidation of the fund.

Local tax authorities have ruled that because of its unincorporated status, investment funds are not regarded as taxpayers. Accordingly, the tax authorities may consider that they are not a resident person for treaty purposes, except in cases where the treaty specifically provides otherwise, as provided in the treaties with Croatia, Poland, South Korea and UK.

Capital gains
See current income.

Withholding tax
FII receipts are not subject to withholding taxes in Chile.

Other taxes
No other income taxes would be applicable on the fund. However, under an amendment to Law No. 18,815, a 35% tax would apply on the following disbursements or operations made by a fund:
- those not required for the development of the fund's activities and investments authorised by the law;
- loans made by the fund to their individual and non-resident investors;
- providing to its investors the use of one or more of the assets that compose the fund; and
- guaranteeing obligations of the Fund's individual and non-resident investors with assets belonging to the fund.

In such cases, the management company is liable for the payment of the tax.

Accounting rules
Local GAAP would have to be followed.
In the process of convergence to International Accounting Standards and International Financial Reporting Standards (*IFRS*), the SVS issued Ruling No. 544, 2009, Memorandum Ruling No. 592 of 2010 and Ruling No 1998, 2010, making mandatory for investment funds and their management companies adopting IFRS.

For the year ending on December 31, 2010, financial statements should be issued without comparison with the previous year, however they should provide the comprehensive information of a financial statement and shall be audited. Financial statetements as of December 31, 2011 and beyond, should present a comparison between results of year 2010, giving full effect to the requirements for recognition, valuation and disclosure required by new rules. In the case of temporary or interim financial statements, investment funds and management companies must submit quarterly financial statements based on the new rules as of March 31, 2011, compared to the periods / years concerned.

3.2 Transition regulations

Conversion into REIT status
No regulations.

No pre-REIT structure is contemplated by Chilean law.

Chilean law does not contemplate the possibility of conversion into a REIT or vice versa.

However, under general rules, the gain derived from the sale of real estate held by individuals or non-residents is exempt if held for at least one year and if the seller is not considered to be regularly engaged in the business of selling real estate.

If the seller is an entity subject to corporate tax, any gain is treated as ordinary income.

3.3 Registration duties

Registration duties
Notary fee and register fees.

Transfers of real estate located in Chile must be formalised in a public deed signed before a public notary and registered with the land register. Notary fees and land register fees apply. In addition, in order to authorise the public deed, evidence must be provided to the notary that there are no outstanding unpaid real estate taxes.

No real estate transfer tax applies in Chile.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- Distribution received tax-exempt. - Capital gains on disposal of units taxation subject to circumstances.	- Personal income taxes. - Capital gains taxation -subject to circumstances.	N/A

Corporate unit holder
Generally Chilean entities that invest in a fund are exempted from corporate tax on the dividend income they receive from the fund. No distinction exists between a current income dividend and a capital gains dividend.

Ultimate distributions to individual or non-resident shareholders of the domestic corporate unit holder will be subject to personal income taxation or dividend withholding tax, respectively.

A return of capital would be tax-free to the extent of basis recovery. Any excess would be treated as dividend income and subject to the treatment discussed above.

Capital gains realised on the sale of units held in a fund are treated in the same way as gains derived from the sale of publicly traded shares of Chilean corporations. The treatment would depend on the facts and circumstances surrounding the sale. If certain conditions are met, such as that the units are acquired and disposed in an authorised stock exchange, the gain may be exempt from income taxes. If the exemption is not applicable, the gain could be subject to a capital gains tax of 17% provided that the shares have been held for at least one year, the seller and buyer are unrelated and the seller is not considered as habitually engaged in the sale of units. If any of these conditions are not met, the gain would be subject to tax as ordinary income.

Individual unit holder
Dividends are subject to personal income taxes. In case of a fund investing in corporate entities, a credit for corporate taxes paid on the underlying investments may be available. No difference exists between a current income dividend and a capital gains dividend.

A return of capital distribution is treated the same as for corporate domestic unit holder.

Capital gains realised on the sale of the REIT shares are treated the same as for corporate domestic unit holder.

Individual unit holders are liable to self-assess and file the corresponding personal or corporate taxes that apply..

Withholding tax
Dividends paid to Chilean resident individuals or entities organised in Chile are not subject to withholding tax.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- Dividends subject to a 35% withholding tax. - Taxation of capital gains depends on circumstances.	- Dividends subject to a 35% withholding tax. - Taxation of capital gains depends on circumstances.	No tax treaty relief available.

Corporate unit holder

Dividends are subject to a 35% withholding tax. In the case of a fund investing in corporate entities, a credit for corporate taxes paid on the underlying investments may be available. No difference exists between a current income dividend and a capital gains dividend.

Taxation of a return of capital distribution and capital gains realised on the sale of the REIT units is the same as for corporate domestic unit holders.

Individual unit holder

Dividends are subject to a 35% withholding tax. No difference exists between a current income dividend and a capital gains dividend.

Taxation of a return of capital distribution and capital gains realised on the sale of the REIT units is the same as for domestic shareholders.

Withholding tax

In case of non-resident shareholders, the manager of the fund is required to withhold and file the required tax returns. The withholding tax would be applied at a 35% on the dividend amount. A credit against this withholding tax may be available for the corporate tax paid on the underlying investment, in case the fund has investments in Chilean companies subject to corporate tax.

The dividend withholding tax must be filed and paid within the first 12 days of the month immediately following the month in which the dividend was paid.

No major differences would exist in a case where the investor is resident in a tax treaty country because all Chilean tax treaties have a provision that Chilean dividend withholding tax is considered as a tax applicable on the investor, and thus not subject to the limitation of the dividends article of the treaties.

5 Treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
- General rules for local rental income applies. - 10% income tax if special rules followed.	Likely to be treated as a normal dividend from a non-resident company.	Likely to be treated as a normal dividend from a non-resident company.

Foreign REIT

A foreign REIT would be taxable under general rules for local rental income. However, if the foreign REIT organises itself in Chile under the rules contained in Law No. 18.657, any profits would only be subject to a 10% income tax on their operating income and capital gains derived from investments in assets located in Chile.

Corporate unit holder

A distribution of its income by a foreign REIT to a Chilean corporate unit holder is likely to be treated as a normal dividend from a non-resident company. The income would be included upon receipt, and a foreign tax credit may be available for withholding taxes imposed on the distribution and for foreign income taxes paid on the underlying income.

Capital gains from the sale of the units in the foreign REIT would be subject to tax in Chile as ordinary income. A foreign tax credit for taxes imposed on the capital gain may only be available if the REIT is treated as a resident in a country that has a tax treaty with Chile.

Individual unit holder

A distribution of its income by a foreign REIT to a Chilean individual unit holder is likely to be treated as a normal dividend from a non-resident company. The income would be included upon receipt, and a foreign tax credit may be available for withholding taxes imposed on the distribution and for foreign income taxes paid on the underlying income.

Capital gains from the sale of the units in the foreign REIT would be subject to tax in Chile as ordinary income. A foreign tax credit for taxes imposed on the capital gain may only be available if the REIT is treated as a resident in a country that has a tax treaty with Chile. ■

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Americas

Costa Rica

(REIF)

Global REIT Survey 2011

September

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EPRA | REPORTING
European Public Real Estate Association

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1 General introduction

	Enacted year	Citation	REIT type
REIF	1997 and 2009, respectively.	Securities Market Regulation Act (Num. 7732) and the General Regulations of Fund Management Companies and Investment Funds.	Fund type (showing some characteristics of a REIT).

In general, investment funds are treated as independent estates owned by plural investors. Only authorised investment fund management companies (IFMC) can manage an investment fund. The participation units of the investors are represented by participation certificates (participations), issued with the same characteristics and under the same conditions for each investor. Only investment funds authorised by the National Securities Commission (*Superintendencia General de Valores* - SUGEVAL) may conduct a public offering of its participation units, or be quoted on a local securities exchange.

Costa Rican legislation establishes two types of REIFs: a) Real Estate Investment Funds (REIF) and b) Real Estate Development Investment Funds (REDIF). These investment funds differ by the type of assets in which they are allowed to invest.

REIFs should only be organised as closed-ended funds and can only assume risks related to real estate activity. These invest mainly in real estate for leasing and eventually, selling. The real estate must include facilities already built. The assets in which the REIF invest could be located within Costa Rica or abroad. In the former case, the minimum amount for participation is of USD 1,000 and when the investment is in real estate assets located abroad, the investment must be at least of USD 5,000. The minimum number of investors is of 50. For SUGEVAL to authorise a REIF it must have minimum net assets of USD 5 million and the diversification of assets is subject to the following rules: 80% annual average of monthly balances of the fund assets must be invested in real estate assets and 20% must be kept in cash in a current account to attend cash needs or in securities publicly traded, Participants or related entities or individuals, could not act as lessees of the assets of the fund. However, the IFMC or related entities could act as lessees of the fund, provided that the total monthly income these produced do not exceed 5% of the total monthly revenues of the fund. The assets must be assessed annually and could be sold only after three years of acquisition, exceptions under specific circumstances are allowed.

REDIFs should only be organised as closed-ended funds and its public trade is restricted. These must invest in real estate development projects which may be in different stages of development, whether these are in a design or in a construction stage. Once the construction is finished, the real estate must be sold or leased. Complementarily, REDIFs could purchase real estate to let it increase its value with time (*plusvalía*) or for leasing. The assets could be located within Costa Rica or abroad. The minimum amount for participation is of USD 1,000. However, different from REIFs, the minimum investment for participant is of 50 participations for investor. For SUGEVAL to authorise a REDIF it must has minimum net assets of USD$ 5 million. The minimum number of investors is of 25. The IFMC or related entities could act as lessees of the fund, provided that the total monthly income these produced do not exceed 5% of the total monthly revenues of the fund.

The investment funds are governed by the Securities Market Regulation Act (Law Num. 7732 dated December 17, 1997) and the General Regulations of Fund Management Companies and Investment Funds (issued by the Financial System Oversight National Board, on November 26, 2009).

2 Requirements

2.1 Formalities / procedure

Key requirements
- Licence from the National Securities Commission (SUGEVAL) for the investment fund management company (IFMC). - Registration on the REIF list. - Fund must be authorised by SUGEVAL. - Approved prospectus by SUGEVAL.

The Investment Fund Management Company (IFMC) could be a local entity or a branch from a foreign entity, but their exclusive business purpose must be to act as investment fund management entity and as a complementary purpose these could have the trading of local or foreign investment funds. These must obtain authorisation to operate within the local market from the National Securities Commission (SUGEVAL). Among other requirements: the request must be filed by the person who will act as legal representative of the company, and a draft of the incorporation deed must be attached to the request, along with the shareholders, directors and legal representatives' résumé and a sworn statement indicating that none of the them has been convicted of a crime during the previous five years.

Other requirements include: (i) Capital stock must be paid and subscribed. (ii) A description of the integrated risk management Unity which should be structured to comply with the regulations rules. (iii) Manual including policies and procedures of the IFMC. This manual should include selling and marketing rules.

The licence to operate granted by SUGEVAL to an IFMC is conditioned to the filing of the original documents within a six month period after the authorisation date. Therefore, the IFMC has a six-month period to register the original documents of incorporation before the Mercantile Section of the Public Registry. The IFMC has a one-year term to begin operations as of the date of communication that final requirements have been completed. If the IFMC fails to begin operating during that year, the licence will be cancelled. It is understood that an IFMC has began operations if it registers at least one Investment fund.

As per the investment funds, the authorisation process is performed on-line. Once the authorisation is obtained the original documentation should be filed within a three-month period.

After obtaining the authorisation the Investment Fund will be registered before the Securities and Intermediaries National Registry.

The requirements to register a fund include:

a. Request filed and signed by the legal representative of the IFMC before the SUGEVAL.
b. Board of directors agreement in which said Board agreed the organisation of the fund. This agreement should comply with the requirements specified by SUGEVAL.
c. Investment Fund Prospectus.
d. Code ISIN issued by the authorised codified entity.
e. Procedures Manual.
f. When the fund would be publicly traded it must comply with additional requirements established in the Securities Public Trade Regulations.

The prospectus should include the relevant information of the investment fund that would allow the investors to make an informed investment decision. Therefore, the Investment fund Prospectus should contain the following information:

a. Purpose of the fund.
b. Main characteristics of the fund (i.e. characteristics of the participation units and of the issuance and redemption of units procedures, term of the fund; mechanisms for estimating returns and distributions to investors; commissions payable to the IFMC; among others).
c. Terms of investment policy.
d. Description, policies and warnings in relation to the risks associated with the investment.
e. General description of the entity responsible for the management of the fund (IFMC).

Investment funds must start operations within a nine-month period following the notification from SUGEVAL that all requirements have been completed. This term may be extended upon request for an additional nine-month period. If they do not start operations during this time, the authorisation to operate the fund would become invalid. However, regarding REDIFs the term is extended to 18 months.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
- The IFMC must be a corporation or a branch of a foreign fund manager company.	- The IFMC must have a minimum share capital of CRC 30 Million (approx. USD 60,000).

Legal form

The fund management company could be a Costa Rican corporation or a branch of a foreign fund management entity, incorporated before the Mercantile Section of the Public Registry as established by the Commerce Code.

If a foreign management company is interested in trading a foreign REIF in Costa Rica, the Regulations allow the local trading of authorised REIF from the following countries: United States, Spain, Mexico, Colombia, Chile, Canada, Brazil, United Kingdom, France, The Netherlands, Australia, Germany, Ireland, Italy, Luxemburg, Switzerland, Portugal, Japan and Hong-Kong.

Minimum initial capital

The IFMC must have a minimum share capital of CRC 104,000,000 (approx. USD 208,000).[1] However, this amount is updated every year by a resolution from SUGEVAL.

REIFs and REDIFs: The real estate investment fund must have USD 5 million in net assets.

[1] US $ 1 – CRC 545 on May 26, 2010. Source: Costa Rica Central Bank, Website: www.bccr.fi.cr, May 26, 2010.

The participation value of REIFs that only invest in assets located in Costa Rica is a minimum of USD 1,000, and if the REIF invests in assets located outside of Costa Rica, the minimum amount of participation is USD 5,000.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
Minimum 50 participants - REIF Minimum 25 participants - REDIF	Yes

Unit holder requirements

The minimum number of participants in a CR for REIFs is 50 and REDIFs is 25. However, the general rule for investment funds is 50. If the fund does not comply with the minimum investors' requirement for a period exceeding the six months, the fund would be deregistered.

Listing requirements

Closed-end investment funds are required by law to be registered for trading on an organised local exchange market.

If the investor decides to sell his/her participation interest, the participations could not be redeemed directly by the Fund except in the circumstances established by law. The latter include for example: when the investors execute their appraisal right, which can be executed when they do not agree with the amendments made to the fund's investment policies.

Therefore, when selling a participation in a REIF, the participant would have to trade them in a stock exchange. The participation value will be determined both by the valuation of the assets and by its fair market value according to the stock exchange..

The IFMC must be registered before SUGEVAL. However, the IFMC is not a listed company on the Costa Rican Stock Exchange, only the fund is listed.

2.4 Asset level / activity test

Restrictions on activities / investments
- The main activity must be the acquisition and/or leasing of real estate. - 80% of property in real estate assets. - The remaining percentage could be invested in other financial investments such as publicly traded securities. - No more than 25% of the REIF's income can derive from one individual or corporation that belongs to the same economic unit. - There are some limitations regarding the sale of the REIF's asset.

At least 80% of the annual average remaining balance of assets must be invested in real estate. The remaining 20% must be kept in a checking account or invested in publicly traded securities. The 80/20 percentages apply to both CR funds investing in Costa Rican assets as well as CR funds investing in non-Costa Rican assets. However, these percentages should not apply to foreign funds registered with SUGEVAL, since foreign funds must comply with the regulations of their country of incorporation.

REIFs have three years to fulfil these investment percentage requirements.

No more than 25% of the REIF's income can be derived from one individual or corporation that belongs to the same economic unit.

Real estate assets may not be sold by the REIFs until three years after the acquisition and registration under the REIF's property.

Neither investors, individuals nor companies related to the fund, may lease real estate belonging to the fund. The IFMC manager, or companies integrated to its economic group may lease real estate from the fund as long as it does not represent more than 5% on the REIF's monthly income.

2.5 Leverage

Leverage
- Loans for IFMC are limited to a 20% of their assets. - Loans for REIFs and REDIFs are limited to 60% of their real estate property and 10% of any other securities owned by the fund (this 10% cap is the same that applies to financial funds).

Loans for IFMC are limited to 20% of their assets. Loans for financial funds are limited to 10% of their assets. In exceptional cases, SUGEVAL may authorise a 30% limit on loans for financial funds, however, the investors' assembly must agree on this.

Non-financial investment funds may have a leverage of up to 60% on their assets. This cap applies to REIFs and REDIFs.

In general, with the exception of specific situations described above, an investment fund may not encumber or lien its assets to obtain debt.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
No requirement.	No requirement.	No requirement.

Operative income

The law does not establish a mandatory percentage to be distributed, or a specific timing. This will be established in the fund's prospectus. In practice, Costa Rican Funds substantially distribute all of their income to their investors.

Capital gains

The law does not establish a mandatory percentage to be distributed, or a specific timing. This will be established in the fund's prospectus.

2.7 Sanctions

Penalties / loss of status rules
Determined by SUGEVAL.

If the CR fund fails to comply with regulatory requirements, SUGEVAL could take control of the REIF or liquidate the fund.

In the case of closed-end funds, such as REIFs, SUGEVAL may call for an investors' assembly to determine if the fund must be liquidated or not. Also, the investors' assembly may decide to liquidate the fund and the Superintendent from SUGEVAL will ratify the decision.

3 Tax treatment at the level of REIF

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
5% on gross income.	5% on net amount.	N/A

Investment Funds enjoy a preferential tax treatment. Therefore, REIFs and REDIFs benefit from this System. Article 100 of the Stock Market Regulatory Act (*Ley Reguladora del Mercado de Valores*, by its Spanish Acronyms LRMV),[2] establishes that investment funds are subject to taxation under a special system. Revenues received by investment funds are divided into three groups with a different tax treatment for each one:

- Income derived from bonds subject to withholding taxes or exempt from withholding taxes (such as bonds issued in local currency by the Popular and Communal Development Bank) is not taxable. However, jurisprudence states that capital gains derived from the sale of such securities are subject to the fixed rate of 5% mentioned below.
- Income derived from other types of assets and not subject to withholding taxes (such as dividends, offshore investments, exchange currency differences, and leases received by real estate investment funds) is subject to a 5% tax rate on the gross amount.
- Capital gains are subject to a fixed tax rate of 5%. The tax base is the difference between the sale price and the value of the asset in the accounting records on the date of the transaction.

In Costa Rica, there is no registration duty or capital duty on the fund or transfer duty on the transfer of the investor's interests on the fund.

Distributions of yields from a fund are not subject to withholding taxes. Yields, dividends and capital gains derived from the fund are not considered taxable income for the investor. Roll-up is in fact permitted without adverse tax consequences. However, when the investor is a non resident individual or entity, a withholding tax on remittances abroad would apply.

Investment funds are exempt from transfer taxes applicable to the acquisition or sale of assets.

Interest income, dividends, capital gains, and any other income derived from pension funds created and operating under the terms of the Law for the Protection of Workers, are exempt from the tax established under article 100 of the LRMV and are also exempt from income tax and the withholding tax on dividends and interests.

Other taxes
No other taxes apply.

Accounting rules
SUGEVAL has a series of regulations that REIFs must comply with for accounting purposes. Also REIFs have special rules for the appraisal of assets. Assets must be appraised at least once a year by a registered appraiser and by a financial professional. IFRS 40 is also applicable.

[2] Stock Market Regulatory Act, Num. 7732 dated December 17, 1997 and published in the Official Gazette Num. 28 of January 27, 1998.

3.2 Transition regulations

Conversion into REIT status
N/A

Not applicable under Costa Rican legislation.

3.3 Registration duties

Registration duties
Transfer tax exemption.

The transfer tax applicable upon the transfer of real estate is levied at 1.5%. However, according to the Securities Market Regulation Act, the sale of real estate from or to a fund will be exempt from the transfer tax. Stamp tax and registration fees of approximately 1% should apply.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Tax-exempt.	Tax-exempt.	N/A

Article 100 of the Securities Market Regulatory Act establishes that profits, dividends and capital gains generated by participations of investment funds will be exempt from any tax.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Taxable	Taxable	Interest 15% WHT Dividends 5% or 15% WHT Capital gains 0% WHT.

Article 100 subsection (d) of the LRMV states that yields, dividends, and capital gains generated by investments in investment funds are exempt from all taxes. This exemption refers to investments made by the unit holders, not by the investment fund itself.

The abovementioned article does not consider residence issues and consequently, it does not differentiate between residents or non-residents unit holders. Such omission gave the Tax Administration an opportunity to issue its criterion on the tax treatment of income obtained by non-residents investing in local investment funds. Accordingly, it sustained that the tax treatment ruled in article 100, subsection d) of the LRMV does not apply to non-resident unit holders, who are subject to a different tax - the remittances abroad tax.

Under remittances abroad tax, income obtained by the non-resident unit holder from its investments in the local Investment fund would be subject to a withholding tax which tax rate would vary depending on the income received: interests – 15%, dividends – 15% or 5% (when the participations of the fund are being market in the Costa Rican stock exchange market). Capital gains derived from the transfer of the investor's interests in the fund would not be subject to remittances abroad tax.

5 Treatment of foreign REITs and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Taxed under normal Costa Rica tax rules.	Dividends taxable at rate of 15%.	Dividends taxable at rate of 15%.

Foreign REIT

According to Section 2 of the Costa Rican Income Tax Law, a "permanent establishment" is defined as: any office, plant, building or other real property asset; plantation, mining, timber and agricultural venture or of any other type; warehouse or any other permanent business premises - including the temporary use of storage facilities - as well as those places used for the sale and purchase of goods and products within the country, and any other ventures of non-resident persons carrying out for-profit activities in Costa Rica.

According to the aforementioned definition, a foreign REIT that hold assets in Costa Rica and that is not registered before SUGEVAL may be considered by the Tax Authorities to have a permanent establishment in Costa Rica, and will be taxed under normal Costa Rica tax rules. Any income generated from the assets located in Costa Rica will be taxed at a 30% corporate income tax rate on net income.

However, if a foreign REIF wants to be registered before SUGEVAL, it must comply with certain requirements established by SUGEVAL, such as being authorised by a regulatory entity that is member of IOSCO; the fund should at least have one year of operation behind it; it must have an equity of at least USD 20 million; the fund manager should have a minimum of three years experience, and should have an independent custodian entity, among others. However, only the commercialisation of real estate investment funds duly authorised in United States, Spain, Mexico, Colombia, Chile, Canada, Brazil, United Kingdom, France, The Netherlands, Australia, Germany, Ireland, Italy, Luxemburg, Switzerland, Portugal, Japan and Hong-Kong., is permitted.

Domestic corporate unit holder

As previously mentioned, a foreign REIT with assets in Costa Rica will be deemed to have a permanent establishment in Costa Rica, and therefore it will be subject to the 30% corporate income tax. Once the REIT transfer its profits out of Costa Rica, such distribution will be subject to a 15% withholding tax. Furthermore, the distribution of dividends from the foreign REIT to its corporate unit holders in Costa Rica should not be subject to taxation according to the territoriality principle.

Please note that Section 19 paragraph c) of the CR Income Tax Law establishes that 100% of the net income of permanent establishments, of non-domiciled entities, will be subject to a 15% withholding tax over the amount credited or remitted to its parent company.

Domestic individual unit holder

As previously mentioned, a foreign REIT with assets in Costa Rica will be deemed to have a permanent establishment in Costa Rica, and therefore it will be subject to the 30% corporate income tax. Once the REIT transfers its profits out of Costa Rica, such distribution will be subject to a 15% withholding tax. Furthermore, the distribution of dividends from the foreign REIT to its individual unit holders in Costa Rica should not be subject to taxation according to the territoriality principle.

Please note that Section 19 paragraph c) of the CR Income Tax Law establishes that 100% of the net income of permanent establishments, of non-domiciled entities, will be subject to a 15% withholding tax over the amount credited or remitted to its parent company. ■

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Caveat: All information in this paper is based on our research as at June 2011. No reliance should be placed on nor should decisions be taken on the basis of the contents of this brochure. Any party or individual involved in the preparation of this brochure shall bear no responsibility for the consequences of any action taken on the basis of information contained herein, including errors and omissions. Throughout this survey, all REIT data provided in the "Sector summary (end of July 2011)" have been kindly provided by Macquarie Global Property Securities Analytics.

Americas

Mexico

(FIBRAS)

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For any questions or feedback related to this survey, please contact:

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1 General introduction

	Enacted year	Citation	REIT type	REIT market
FIBRAS	2004 Amended in 2007.	Mexican Income Tax Law.	Trust	Currently, there are no FIBRAS listed in the Mexican Stock Exchange.

In Mexico, REITs are known as 'FIBRAS' (*Fideicomisos de Inversión de Bienes Raíces*).

The main purpose of the FIBRAS is to attract small and institutional investors to a portfolio of real properties in a diversified array of real property products, such as shopping centers, industrial facilities, office buildings, apartment complexes and hotels, through the issuance of publicly traded securities or real property participation certificates.

FIBRAS are real property trusts that meet the requirements of the Mexican Income Tax Law (MITL) and that grant attractive tax benefits to both Mexican and non-Mexican investors who invest or rent real property through a FIBRA.

FIBRAS were introduced to the MITL in 2004, and new rules have been in force since January 01, 2007.

FIBRAS are regulated by Articles 223 and 224 of the MITL.

FIBRAS have not been entirely successful as changes still need to be enacted to federal and local Laws. Currently there are Private FIBRAS, but no Listed FIBRAS.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Mexico	1	NA	0,6	0,1%

Top REIT

Company Name	Market cap (€M)	Sector type
Fibra Uno Administracion SA de CV	551	Commercial, Industrial, Leisure, Office

2 Formation of FIBRAS

2.1 Formalities

Key requirements
Incorporation under Mexican Law. Mexican trustee. FIBRAS: Listed and Private.

FIBRAS must be incorporated as real property trusts under Mexican Law.

The trustee in FIBRAS must be a financial institution domiciled in Mexico and duly authorised to act as such in Mexico.

There are Listed FIBRAS and Private FIBRAS. Listed FIBRAS are those trusts in which at least 20% of its contributions are received from the general public and certificates issued by the trust are traded publicly. Private FIBRAS are those formed with at least ten unrelated investors, none of which may hold more than 20% of the total certificates issued by the trust, and which are not traded publicly.

2.2 Legal form / Minimum Initial Capital

Legal Form	Minimum Initial Capital
Trust	No

Legal form
As stated above, the legal form for the establishment of a FIBRA is through a real property trust. Trusts in Mexico are governed by the Mexican Law of Negotiable Instruments and Credit Operations, and are entered into with an authorised Mexican financial institution, who acts as trustee. The settler in the trust is the investor who contributes real property, funds, or both to the trust, and the beneficiaries are the parties that are entitled to receive the benefits from the gains or income of the trust.

In accordance with the MITL, real property trusts are considered as FIBRAS provided they meet the following requirements:

a. That the primary purpose of the trust is: (i) the acquisition or the construction of real properties intended for lease; or (ii) the acquisition of the right to receive income from the leasing of such assets; in addition to (iii) the granting of financing for said purposes with the assets leased serving as collateral.
b. That at least 70% of the funds of the trusts are invested in real properties, or in the rights or credits referred to above, and the remainder is invested in Federal Government Securities registered in the National Securities Registry, or in shares of mutual funds investing in debt instruments.
c. That the real property built or acquired in the trust is leased for a term of no less than four years from the end of construction, or the date of acquisition of the real property, respectively. Real property that is alienated prior to the end of said four-year term does not receive preferential tax treatment.

Minimum Initial Capital
Mexican legal and tax provisions do not establish any limits relating to the initial capital of FIBRAS.

2.3 Certificate Holder Requirements / Listing Requirement

Certificate Holder Requirements	Listing Requirement
Solely for Private FIBRAS. At least ten investors who are unrelated parties. Each investor may not hold more than 20% of the certificates.	None

Certificate Holder requirements
The trustee in a FIBRA is required to issue certificates to the investors, regardless of whether the certificates are traded publicity or not.

If the certificates are not traded publicity, at least ten investors that are unrelated are required, and no individual investor may hold more than 20% of the certificates.

Listing requirement
Certificates need not be listed in the Mexican Stock Exchange or in any other recognised stock market in order to receive the preferential tax treatment. The special tax regime for real property investment is only for FIBRAS, and for Mexican Real Property Investment Entities (commonly referred to as "SIBRAS" for the acronym in Spanish). Both FIBRAS and SIBRAS may or may not be listed on the Mexican Stock Exchange or any other recognized market. In order to obtain the preferential tax treatment, FIBRAS and SIBRAS must be incorporated in accordance with Mexican Law.

2.4 Patrimony of FIBRAS

Restrictions on Activities / Investments
70% : 30% ratio

At least 70% of the patrimony of FIBRAS must be invested in: (i) real property intended for lease; (ii) the acquisition of the right to receive income from the leasing of such real property; or (iii) the financing to acquire the real property intended for lease, or the rights to receive income with the leased assets serving as the security interest.

30% or less of the patrimony of FIBRAS may be invested in Mexican Government debt securities or in shares of mutual funds investing in debt instruments.

There are no restrictions regarding real property developments.

2.5 Leverage

Leverage
Thin Capitalisation Rules.

Interest payments made to foreign-related parties are subject to thin capitalisation regulations, under which such interest payments are only deductible provided that the total amount of interest bearing debt incurred with such foreign related parties does not exceed the party's average equity multiplied three times (this is what is commonly known as the "3-to-1 debt/equity ratio"). The portion of interest payments made to foreign-related parties arising from foreign related debt exceeding the 3-to-1 debt/equity ratio will not be deductible.

Taxpayers may seek a ruling from Mexican tax authorities in order to exceed the 3-to-1 debt/equity ratio mentioned above.

2.6 Taxable Income Distribution / Obligations of Trustee

Taxable Income Distribution	Timing
95% of taxable income.	Annually

Taxable income

Trustees in FIBRAS must distribute at least 95% of the FIBRAS taxable income no later than March 15 of every year. In this respect, the taxable income of FIBRAS must be attributable to each holder of certificates.

2.7 Sanctions

Penalties / Loss of Status Rules
Tax incentives do not apply. May lose status as FIBRA.

In the event of non-compliance with organisational and asset rules, the trust may lose its status as a FIBRA. The sale of real property prior to the four-year holding period does not constitute "non-compliance". In this case, the tax benefit is lost only for the property that is sold.

3 Tax treatment at the Level of FIBRAS

3.1 Corporate Taxes / Tax withholding

Mexico has two corporate taxes (i) Income Tax and (ii) Single Rate Tax (IETU for its acronym in Spanish).

Income tax is levied at a rate of 30% on taxable income (taxable revenues minus authorised deductions) calculated on an accrual basis. The IETU is levied at a rate of 17.5% on a base consisting of a tax payer's revenue less certain deductions, all determined on a cash basis. The IETU is payable to the extent it exceeds Income Tax and for the difference only.

The main differences between Income Tax and IETU deductions are:

Deduction	IETU	Income Tax
Investments (buildings, machinery and equipment, leasehold improvements, etc).	100% on the date in which payment is made.	Through depreciation.
Land	100% on the date in which payment is made.	As cost of acquisition when the land is sold.
Inventory	100% on the date in which payment is made.	Through the cost of goods sold.
Interest	Non-deductible (except when payment is included in the price).	Deductible
Royalties	Non-deductible if paid to a related party.	Deductible

Operating income

Mexican tax regulations provide that a trustee of a FIBRA is required to determine, on behalf of the beneficiaries, the Income Tax and IETU liability arising from the activities of the FIBRA as any corporation or company would, i.e. it will be entitled to deduct any expense that complies with Mexican tax requirements. Once the net gain or taxable income is determined, upon distribution, trustee will be required to make a tax withholding, unless the beneficiary of the income is exempt from paying such tax (i.e. registered pension or retirement funds). Any distribution made by trustee to the beneficiaries during the tax year will be creditable against the annual tax liability of the beneficiary.

Mexican tax residents are required to add any distribution made by FIBRAS to other income they receive during the tax year and they will be entitled to credit the tax withholding made by the FIBRAS.

FIBRAS have no obligation to make estimated payments of Income Tax or IETU. This allows the trust to allocate cash to project financing rather than paying estimated taxes. However, the trust has the obligation to file and pay Income Tax and IETU, as applicable, on an annual basis.

Mexican tax provisions establish that the net operating losses for Income Tax purposes (NOL's) may be carried forward ten years and that the trust may decrease its losses sustained in subsequent taxable years against its Income Tax base for the year. IETU losses may also be carried forward ten years in the form of an IETU credit applicable against the Income Tax liability for the year in which it was originated or against IETU liabilities from future years.

Capital gains

Upon alienation of any patrimony in the FIBRAS, Income Tax and IETU will apply. Income tax paid will be creditable against the IETU. Please note that the tax must be indexed for inflation from the month when the real property was contributed into the trust, and up to the month in which the alienation takes place.

Other taxes

Local land taxes will apply to the real property owned by the FIBRAS.

Accounting rules

In Mexico, the Federal Fiscal Code (FFC) lists the requirements with which the books and records must comply among which we find the following:

a. The accounting systems and records must comply with the requirements listed in the Regulations of the Federal Fiscal Code (RFFC) (i.e. preparing financial statements, linking the financial statements with accounts, identifying transactions, and preparing transaction vouchers as evidence of transactions);
b. The accounting records must be analytical and must be registered within two months following the date on which the respective transactions were performed;
c. The accounting books must be kept at the tax domicile of the taxpayer. A request can be submitted to the Mexican tax authorities in order to authorise the taxpayer to keep the accounting books in a domicile other than the tax domicile, provided that such other domicile is located in the same state in which the tax domicile is located.
d. The books and records must follow the Mexican Financial Information Norms and be kept in Mexican Pesos.

3.2 Transition regulations

Conversion into FIBRA Status
Deferred Taxation of Contributions to the Trust.

A contribution of real property is deemed a taxable event. The tax deriving from the contribution of real property into FIBRAS is deferred up to the moment that the contributor of the real property sells its certificate (the tax must be indexed for inflation calculated as of the month when the real property was contributed into the trust, and up to the month in which the certificate is sold); furthermore, if the contributed real property is sold by the FIBRAS prior to the end of the above-mentioned four year period of their contribution to the FIBRA, the deferred taxes will have to be paid within 15 days following such sale.

3.3 Other fees

Other Fees
Local Property Transfer Tax. Public Registry fees. Notary Public fess. Trustee fees. Other local fees.

In Mexico, the alienation of real property is subject to a real property transfer tax at a local level. Generally, property transfer tax is triggered when the trustor receives the certificates, but if dealing with a FIBRA, the property transfer tax may be deferred up to the moment the certificate is sold or when the real property is sold by the trust depending on local Laws. The transfer tax rate varies depending on the State where the real property is located. For example, in Baja California and Baja California Sur the real property transfer tax rate is 2% of the value of the real property.

With regard to the fees of the Public Registry, the Notary Public, the Trustee, and any other local fees that may apply depending on local Laws, please note that the amount to be paid for same vary depending on the State where the FIBRA is formed, but it is important to take such fees into consideration since such can amount to a considerable sum.

4 Tax treatment at the Certificate Holder level

4.1 Domestic Holder

Corporate Certificate Holder	Individual Certificate Holder	Tax Withholding
Income tax of 30% over taxable income from the sale of the certificates. IETU at a rate of 17.5% over the sales price of the certificates. Revenues from the sale of certificates through an authorised Stock Exchange is tax-exempt for IETU purposes only.	Income Tax of 30% over taxable income from the sale of the certificates. IETU at a rate of 17.5% over the sales price of the certificates. Income from the sale of certificates through an authorised Stock Exchange is tax-exempt for income tax and IETU purposes.	Income Tax withholding at a rate of 28% made by the buyer of the certificates to individuals and non-Mexican residents. Tax withheld at a rate of 28% made by trustee or by the financial broker who has the certificates in deposit to corporate and individual certificate holders.

Corporate Certificate Holder
The distributions paid by the trust to Mexican entities are considered taxable income and is subject to Income Tax at a rate of 30%.

The income that derives from the sale of certificates is considered to be taxable income for Income Tax purposes, and the sale of such is taxed at a rate of 30% of the net profit.

From a IETU perspective the sale of the certificates is subject to IETU at a 17.5% rate. Income Tax actually paid is creditable against the IETU.

Individual Certificate Holder

The distributions paid by the trust to Mexican individuals are considered taxable income and is subject to Income Tax at a rate of 30%. Mexican individuals must recognise such distribution as lease income for Income Tax purposes.

The income that derives from the sale of certificates is considered to be taxable income for Income Tax purposes. The sale of certificates is taxed at a rate of 30% of the net profit. The income from the sale of participant certificates through an authorised Stock Exchange, received by Mexican individuals resident in Mexico, is exempt for Income Tax purposes.

From an IETU perspective the sale of the certificates is subject to IETU at a 17.5% rate. Income Tax actually paid is creditable against the IETU.

Tax Withholding

The distributions paid by the trust to Mexican entities and individuals is subject to a tax withholding made by the trustee or by the financial broker who has the certificates in deposit unless such entities or individuals are exempt from such payment, and it is a tax credit for Mexican entities or individuals.

The sale of a certificate is subject to an Income Tax withholding made by the buyer of the certificate at a rate of 10% of the gross revenues, with no deductions, and it is tax creditable. Such tax withholding will not be made if the owner of the certificate is a Mexican entity resident in Mexico or is exempt from paying such tax.

4.2 Foreign Certificate Holder

Corporate Certificate Holder	Individual Certificate Holder	Tax Withholding
Final Income Tax withholding.	Final Income Tax withholding.	10% tax withholding made by the buyer of the certificates. Tax withholding of 28% of the taxable income to corporate and individual certificate holders, same withholding that is made by trustee or by the financial broker who has the certificates in deposit.

Non-Mexican tax residents are not subject to IETU.

Corporate Certificate Holder

Amounts withheld from corporate holders of certificates who are foreign residents are deemed in Mexico as a final tax payment.

If the owner of the certificate is a ‘pension and retirement fund’ registered with the Mexican tax authorities, Trust distributions and the alienation of certificates is exempt for Income Tax purposes. Certain requirements must be met in order to be a ‘pension and retirement fund’ registered for Mexican tax purposes.

Individual Certificate Holder

Amounts withheld from individual holders of certificates who are foreign residents shall be deemed in Mexico as a final tax payment.

Tax withholding

Distributions paid by the trust to foreign entities and individuals is subject to a tax withholding made by trustee or by the financial broker who has the certificates in deposit at a rate of 28%, unless such entities or individuals are exempt from such payment, and is considered a final tax payment.

The sale of certificates is subject to a tax withholding at a rate of 10% of the gross revenues, with no deduction, unless the owner of the certificate is exempt from paying such tax. In the event of a listed certificate, Income Tax will not be due on the profit obtained from such alienation by foreign residents with no permanent establishment in Mexico.

5 Treatment of Foreign trust

Foreign Trust
Income Tax and IETU if the foreign trust is considered a resident in Mexico. Otherwise taxation depends on tax treaty.

Foreign Trusts

The benefit of the special tax regime applicable to FIBRAS will not be applicable to a foreign trust because in order to obtain the special tax regime granted to FIBRAS, the trust must be incorporated under Mexican Law. In this case the activities of the foreign trust in Mexico will determine the applicable tax regime. It is possible that the foreign trust would be treated in Mexico as a permanent establishment. In this case, it would be subject to Income Tax and IETU. It is possible that it would be treated as a foreign resident with revenues from a source of wealth located in Mexico; accordingly, the Income Tax treatment will depend on the type of Mexican source income obtained by the non-resident, and whether the non-resident resides in a country with which Mexico has a tax treaty. Non-Mexican residents are not subject to IETU.

SIBRAS

I General introduction

Investors may also form Mexican entities commonly referred to as SIBRAS, which provide a special tax regime for real property investments.

A SIBRA is a real property investment entity incorporated under Mexican Tax Law that will have its main administration and actual place of management in Mexico and, thus, it will be a resident of Mexico for tax purposes.

II Formation of SIBRAS

The contribution of real property to a Mexican entity is, in principal, taxable for Income Tax and Single Rate Tax purposes to the transferor; however, entities that are taxpayers, (and certain of their shareholders/partners), are entitled to receive the tax benefits afforded to SIBRAS provided that the Mexican entities meet the following requirements:

a. That the entity is incorporated in accordance with Mexican Law. Entities may be formed as corporations, limited liability companies or partnerships in accordance to the Mexican Commerce Code.
b. That the primary objective of the Mexican entity is: (i) the acquisition or the construction of real properties intended for lease, or (ii) the acquisition of the right to receive income from the leasing of such assets, in addition to (iii) the granting of financing for said purposes with the leased real properties serving as collateral.
c. That at least 70% of the funds of the Mexican entity are invested in: (i) real properties, or (ii) the rights or the credits referred to in the preceding paragraph, and the remainder funds are invested in Federal Government securities registered in the National Securities Registry or in shares of mutual funds investing in debt instruments.
d. That the real property that is constructed or acquired is leased and is not alienated prior to the end of a four-year period calculated from the end of construction or the date of acquisition of the real property. Real property alienated prior to the end of said four-year term will not receive the preferential tax treatment.

A SIBRA may either be an existing entity or a newly created entity; however, if it is an existing entity, its purpose must be that which is indicated above.

III Tax treatment of SIBRAS

Provided that a Mexican entity that is a taxpayer for Income Tax purposes meets the requirements stated in section 2 previously, it will be considered a SIBRA, and it will be subject to the following tax benefits:

a. For Income Tax purposes, the shareholders/partners that contributed real property to the Mexican entity will recognize the profit deriving from such contribution at the time that: (i) they sell or alienate their shares; or (ii) the Mexican entity sells or alienates such real property. Such profit must be indexed, for inflation, as of the month in which the real property is contributed to the Mexican entity, up to the month in which the recognition for income tax purposes is made. Note, however, that no penalty interest (surcharges) will have to be paid on the tax deriving from the profit.
b. For Single Rate Tax purposes, shareholders/partners with revenues deriving from the contribution of real property into the Mexican entity may choose to pay such tax based on the value at which the real property is contributed, on the same date in which the profit for Income Tax purposes is recognized as described above. Taxable revenues for purposes of IETU must also be indexed, for inflation, from the month when the real property was contributed into the Mexican entity up to the month in which the recognition for single rate tax purposes is made. Note, however, that no penalty interest (surcharges) would have to be paid on the tax deriving from the profit.
c. The Mexican entity, as a SIBRA, not required to make Income Tax and Single Rate Tax estimated payments.

In view of this, even though the contribution of the real property to the Mexican Entity, acting as a SIBRA is in principle taxable to the shareholders/partners, under these rules, the shareholders/partners are entitled to postpone or defer payment of the Income Tax and/or Single Rate Tax deriving from the contribution of the real property to the Mexican entity until the time in which: (i) the shareholders/partners sell 100% of their participation interest in the SIBRA, or (ii) the real property is sold. When any of these events occur, the shareholders/partners will be required to pay the deferred tax, in proportion to:

a. the portion that such participation interest of the selling shareholders/partners represent in the total participation interests of the SIBRA; or
b. the portion that the real property that is being sold represents of the real property that was contributed into the SIBRA.

IV Information requirements

Real property investment entities, such as the SIBRAS, are required to provide the information determined by the Tax Administration Service in its general rules. Currently, the Fiscal Miscellaneous Resolution does not establish any information that must be provided by this type of entities, other than the information that has to be rendered by any entity that is a taxpayer. ■

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Americas

Puerto Rico

(REIT)

Global REIT Survey 2011

September

Content

- General information
- Requirements
- Tax treatment at the level of REIT
- Tax treatment at the shareholder's level
- Tax treatment of foreign REIT and its domestic shareholder

For any questions or feedback related to this survey, please contact:

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EPRA | REPORTING

European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type	REIT market
REIT	- Enacted in 1972 - Amended in 2000 and 2006	Internal Revenue Code for a New Puerto Rico, as amended (IRCNPR) IRCNPR §1082.01 to §1082.03 and §1101.01(a)(8)(F) (previously PRIRC of 1994 1500 to §1502 and §1101(18))	In principle, corporate type (election for tax status)	Significant improvements expected from the 2006 changes in the PRIRC. No statistics are available which evidence such improvement.

The law that established Real Estate Investment Trusts ("REITs") in Puerto Rico was enacted in 1972 and amended in 2000 and 2006. The REITs provisions are found in the Internal Revenue Code for a New Puerto Rico (IRCNPR)[1], Sections 1082.01 to 1082.03, and Section 1101.01(a)(8)(F) (previously PRIRC of 1994, Sections 1500 to 1502, and Section 1101(18)).

REIT legislation prior to the 2006 amendments was very restrictive and did not result in the expected investment and development that was contemplated when originally enacted. The 2006 amendments liberalised certain requirements to promote REIT market activity in Puerto Rico. However, the Puerto Rico Commissioner of Financial Institutions does not maintain separate statistics for REITs in Puerto Rico. Therefore, there is no public data available to assess any changes to REIT market activity as a result of the 2006 amendments.

The REIT regime is principally a tax regime, i.e. several types of entities can elect the REIT status. In this survey, we refer to the corporate REIT type.

1 On January 31, 2011, the Governor of the Commonwealth of Puerto Rico signed into law a new Puerto Rico internal revenue code, to be known as the "Internal Revenue Code for a New Puerto Rico" (hereinafter referred to as the "IRCNPR" or the "2011 Code"). The 2011 Code repealed almost in its entirety the Puerto Rico Internal Revenue Code of 1994, as amended. However, the new code incorporates many of the provisions of the 1994 PR Code, including the REITs provisions. There are no changes to such provisions in the 2011 PR Code.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Election with the income tax return - REITs are regulated by the Puerto Rico Commissioner of Financial Institutions - Managed by one or more trustees or directors

Once the legal structure is created, in order to operate as a REIT for tax purposes, an election is required. The election is made together with the filing of the income tax return for the year in which the tax regime is intended to be effective.

The Commissioner of Financial Institutions will oversee the operations of the REIT as regulator. Pursuant to the Puerto Rico Uniform Securities Act, all stocks or shares in a REIT will be considered "Securities".

In order to comply with federal laws:
1. Investor must register issuance of securities as part of the "full and fair disclosure" policy stated by the Securities Act of 1933
2. Sales could be regulated by the Securities Exchange Act of 1934

The guidelines established by the North American Securities Administration Association (NASAA) will apply until otherwise modified by the Commissioner of Financial Institutions of Puerto Rico via regulations.

As a practical manner, the REIT might need to issue audited financial statements for purposes of financing, or other regulatory and business requirements, even though not required for the Puerto Rico income tax return.

The REIT must be managed by one or more trustees or directors.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Corporation, partnership, trust or association	No minimum capital

Legal form
REITs may be organised as corporations, partnerships, trusts, or associations. These entities may be domestic (organised under the laws of Puerto Rico) or foreign (organised under the laws of a country other than Puerto Rico) engaged in trade or business in Puerto Rico and subject to Puerto Rico income tax.

The REIT cannot be a financial institution as defined under Section 1033.17(f) of the IRCNPR (previously Section 1024(f) of the 1994 PRIRC) or an insurance company subject to taxation under Subchapter A of Chapter 11 of the IRCNPR.

Minimum share capital
There are no minimum capital requirements in Puerto Rico. Transferable capital must be represented by stocks or participation certificates.

All of its stocks, shares or interests must be transferable and issued exclusively in exchange for cash.

2.3 Shareholders requirements / listing requirements

Shareholder requirements	Listing mandatory
At least 50 shareholders or partners	No

Shareholder requirements
A REIT has to be composed of at least 50 shareholders or partners.

At no time during the last half of its taxable year more than 50% of the total value of outstanding shares is owned by less than six individuals, based on the attribution rules of Section 1033.17(b)(2) of the IRCNPR (previously Section 1024(b)(2) of the 1994 PRIRC). In order to comply with these provisions, the REIT must maintain records that demonstrate the actual ownership of its outstanding shares or interests.

At present there are no distinctions between resident and non-resident shareholders.

Listing requirements
Listing of a REIT is not mandatory.

2.4 Asset level / activity test

Restrictions on activities / investments
- At least 95% of gross income must be qualifying investment income - At least 75% of gross income must be qualifying real estate investment income - At least 75% of the value of total assets must be represented by real estate assets, cash or equivalents, and securities and obligations of Puerto Rico - Not more than 25% of the value of total assets must be represented by securities other than those mentioned above

At least 95% of gross income must be derived from dividends, interest, rents from real property, gain from the sale of real property and rights to real property and payments received or accrued for entering into agreements to execute loans guaranteed with mortgages on real property, or acquire or lease real property.

At least 75% of gross income must be derived from rents derived from real property located in Puerto Rico, interest on obligations secured by mortgage on real property or rights to real property located in Puerto Rico, gain from the sale or other disposition of real property that is not of the type of property that qualifies as inventory, dividends or other distributions and gains derived from, the sale or other disposition of shares of transferable stock, certificates, or participation in another REIT, amounts received or accrued as consideration for entering into agreements to make loans secured by mortgages on real property and/or rights to real property located in Puerto Rico, and/or to buy or lease real property and/or rights to real property located in Puerto Rico.

At the end of each quarter of each taxable year, at least 75% of the value of total assets must be represented by real estate assets, cash or equivalents, and securities and obligations of Puerto Rico and/or of the United States (and whichever instrumentality or political subdivision thereof); and not more than 25% of the value of total assets must be represented by securities other than those mentioned above. For the purpose of these sections, real property means land located in Puerto Rico or improvements thereon (including, but not limited to, buildings or other structures of permanent nature including the structural components of such buildings or structures constructed after June 30, 1999, or that have been substantially renewed, if constructed after that date) used as: hospitals, schools, universities, public or private housing, transportation facilities and/or public or private roads, office buildings, governmental facilities, facilities of the manufacturing industry, recreational centres , parking facilities, residential properties, shopping centres, hotels and buildings or structures acquired from the government of Puerto Rico, its agencies, and instrumentalities.

Subsidiaries of a REIT will not be treated as a separate entity, and all its assets, liabilities, income items, deductions and credits will be considered as belonging to the REIT. Subsidiary means a corporation, company, or partnership wholly owned, directly or indirectly, by a REIT.

Starting January 01, 2007 the acquisition of real property must be made through the purchase of assets, stocks or participations in a transaction that generates Puerto Rican source income subject to tax in Puerto Rico, except for assets bought from the government of Puerto Rico. This acquisition of real property can be either directly or through Puerto Rican or foreign companies. It is possible to purchase property which has no Puerto Rican source income (such as foreign property or Puerto Rican property with no rental potential) but this may mean that the 75% domestic gross income rule is breached.

2.5 Leverage

Leverage
No restrictions

There are no leverage restrictions. Only for purposes of determining the compliance with the 95% qualifying gross income requirement, the IRCNPR provides a special rule for the income (interest and gain) generated by the REIT with respect to certain hedging instruments.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of net income must be distributed as taxable dividend and 90% of its exempt income must be distributed as an exempt dividend	Included in net income	Annually

Operative income

At least 90% of the net income and exempt net income of a REIT must be distributed annually as taxable and exempt dividends, respectively. If the REIT does not distribute such net income, it will be taxable as a regular corporation at a maximum tax rate of 30% (40.95% for years commencing after December 31, 2008 and before January 01, 2011).

Capital gains

Gains from sale of capital assets are part of a REITs gross income computation and therefore part of its net income determination. Also, certain net gains from sale or disposition of real property that does not constitute a prohibited transaction are part of the net income determination of the REIT.

At present there is no distinction between domestic and cross-border profit distribution.

2.7 Sanctions

Penalties / Loss of status rules
- Loss of REIT tax exemption - Loss of REIT status

The election to operate as a REIT could be terminated if the provisions and requirements under the IRCNPR are not satisfied for the taxable year for which the election is made or for any succeeding taxable year. The loss of REIT status requires a five-year waiting period to re-elect unless waived by the Puerto Rico Secretary of Treasury for reasonable cause.

A REIT that fails the gross income tests above, one or both, may be treated as satisfying those tests to maintain its election if: (1) certain disclosures are made with the income tax return for such taxable year, (2) the inclusion of any incorrect information on those disclosures is not due to fraud with the intent to evade taxes, and (3) the failure to meet the test or tests is due to reasonable cause and not to willful neglect.

However, if a REIT fails to comply with the gross income tests above to operate as such during the taxable year but its election is not deemed terminated, the imposition of taxes will be applicable. The penalty is calculated as a tax charge of 100% on the greater of:

i. the excess of:

a. 95% of the gross income (excluding gross income from prohibited transactions) of the REIT, less
b. the amount of such gross income derived from the dividends, interest, rents from rental property and other qualified income, or

ii. the excess of:

a. 75% of the gross income (excluding the gross income from prohibited transactions) of the REIT, less
b. the amount of such gross income derived from qualified domestic income, multiplied by a fraction the numerator of which is the taxable income of the REIT for the taxable year (without taking into account any deduction for net operating loss) and which denominator is the gross income for the taxable year (excluding gross income from prohibited transactions).

In addition, the REIT is subject to a 100% tax on prohibited transactions, as discussed below.

3 Tax treatment at the level of REIT

3.1 Corporate tax / Withholding tax

Current Income	Capital gains	Withholding tax
Eligible income is tax-exempt	Eligible capital gains are tax-exempt	Eligible income received by the REIT is not subject to withholding tax

Current income

The eligible income is not taxed at the level of the REIT.

Income from prohibited transactions is subject to tax at a rate of 100%. This tax is levied upon the net income from prohibited transactions, excluding prohibited transactions for which there was a loss. A prohibited transaction is the sale or disposition of property primarily held for sale to customers in the ordinary course of a trade or business.

In the case that the REIT is not in compliance with distribution requirements it will be taxable as a regular corporation.

Capital gains

Elegible capital gains are not taxed at the level of the REIT.

Withholding tax

No withholding tax is levied on eligible income received by the REIT. As an otherwise taxable corporation, it would be subject to any other income tax withholding rules on income from prohibited transactions and other related income.

Other taxes

The REIT is subject to other taxes like municipal licence taxes (similar to a gross receipt tax) and real and personal property taxes. For property tax purposes, the REIT may avail to other tax exemptions which might be available under the Municipal Property Tax Act depending on the type of activity or industry in which the property is used.

Accounting rules

There are no special accounting rules existing for a REIT. Generally, the REIT will follow US GAAP.

3.2 Transition regulations

Conversion into REIT status
No regulations

3.3 Registration duties

Registration duties
Stamp duties and register fees

The acquisition of real estate by the REIT will be subject to various kinds of stamp duties and registration and notary fees. These stamp duties and notary fees depend on the value of the property and vary from transaction to transaction.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Final withholding tax on distributions - Capital gains are taxable	- Final withholding tax on distributions - Capital gains are taxable	Withholding tax of 10% on distributions

Corporate shareholder

Dividends are subject to a final withholding tax of 10%.

If the shareholder is a resident entity, gain from the sale of the shares in a REIT would be taxable at special rates if considered long-term capital gains (corporations will be taxed at 15% rather than at a maximum tax rate of 30%).

Individual shareholder

Dividends are subject to a final withholding tax of 10%.

Residents of Puerto Rico would be subject to taxation on capital gains from the sale of the shares in a REIT. Special rate is available if the gain is considered long-term capital gain (individuals and trusts will be taxed at 10%, rather than at a maximum tax rate of 33%).

Withholding tax

Taxable distributions are subject to withholding tax at the rate of 10%, as defined in Section 1082.02 of the IRCNPR (previously Section 1501 of the 1994 PRIRC). The trustees or directors to whom the management of the REIT has been delegated are responsible for deducting and withholding the required tax rate on the taxable distributions.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Withholding tax on distributions - Generally, withholding tax on capital gains	- Withholding tax on distributions - Generally, withholding tax on capital gains	- Withholding tax of 10% on distributions - Puerto Rico has not entered into any Tax Treaties

Corporate shareholder
Dividends will be subject to a 10% withholding tax.

Taxation of capital gain income in the case of a foreign shareholder will depend on the source of the gain and the residency status of the shareholder. If the shareholder is a non-resident entity, income tax withholding at source would be applicable only if the gain is considered from sources within Puerto Rico. Generally, the rule to determine the source of the gain in the case of personal property (shares) is the residence of the seller, with the exception of property that constitutes inventories, depreciable property, and intangible property, each of which are subject to specific rules.

Individual shareholder
The foreign individual shareholder is subject to a 10% withholding tax.

Taxation of capital gain income in the case of a foreign shareholder will depend on the source of the gain and the residency status of the shareholder..The rules to determine the source are the same that we indicated above under corporate shareholder.

Withholding tax
Taxable dividends, as defined in Section 1082.02 of the IRCNPR (previously Section 1501 of the 1994 PRIRC),are subject to withholding tax at the rate of 10%as provided by Sections 1062.08 and 1062.11 of the IRCNPR (previously Sections 1147 and 1150 of the 1994 PRIRC) related to income tax withholding at source on payments to non-resident persons. Treaty relief is not available.

5 Treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Foreign REIT can qualify for REIT status	No specific tax privilege	No specific tax privilege

Foreign REIT
Foreign REIT will not be taxed if it qualifies for REIT status under the provisions of the IRCNPR according to Section 1101(a)(8)(F) (previously Section 1101(18) of the 1994 PRIRC).

Please refer to discussion above related to requirement imposed by the 2006 amendments which entails a taxable acquisition for transactions occurring after the effective date of the approval of the amendments, January 01, 2007.

Corporate shareholder
No specific tax privilege. Distributions from a foreign REIT to a Puerto Rican corporate shareholder will be subject to tax as any other income at the regular rates.

Individual shareholder
No specific tax privilege. Distributions from a foreign REIT to a Puerto Rican individual shareholder will be subject to tax as any other income at the regular rates. ■

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Global REIT Survey 2011

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EPRA REPORTING
European Public Real Estate Association

Americas

USA

(US-REIT)

Content

- General information
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For any questions or feedback related to this survey, please contact:

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1 General introduction

	Enacted year	Citation	REIT type
US-REIT	1960	Internal Revenue Code	Corporate type

The US Congress created the Real Estate Investment Trust (US-REIT) in 1960 in order to make large-scale, income-producing real estate investments accessible to smaller investors. Congress reasoned that the average investor should be able to invest in large-scale commercial properties just as if it were any other kind of investment, that is, through the purchase of equity. Similar to shareholders benefiting from the ownership of stocks in other corporations, the stockholders of an REIT also receive economic benefits from the production of income through commercial real estate ownership. REITs offer distinct advantages for investors. Firstly, greater diversification is achieved by investing in a portfolio of properties rather than just in a single property. Also, the managerial activities are performed by experienced real estate professionals.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
US	179	23,4	313,3	54,8%

Top five REITs

Company Name	Market cap (€M)	Sector type
Simon Property Group Inc	24,579	Retail
Public Storage	14,891	Industrial
Equity Residential	12,666	Residential
Vornado Realty Trust	11,985	Office, Residential, Retail
General Growth Properties Inc	11,301	Retail

The US REIT regime, which is governed by tax laws, has been modified on several occasions since its inception. The essential rules for the US REIT can be found in section 856 and 857 of the Internal Revenue Code.

The passage of a major housing bill in July 2008 had significant implications for US REITs. The legislation contained a number of REIT-specific provisions that had garnered strong industry support. The bill's changes to US REIT laws included:

- Reducing the holding period under the 'dealer' sales safe-harbour test from four years to two;
- Changing the measurement of the 10% of sales permitted under the safe harbor test from current tax basis to either tax basis or fair market value (at the REIT's annual option);
- Increasing the size ceiling for taxable REIT subsidiaries from 20% to 25% of assets;
- Permitting healthcare REITs to use taxable subsidiaries in the same manner as hotel REITs;
- Excluding most real estate-related foreign currency gains from the computation of the REIT income tests; and,
- Providing the US Treasury Department with clear authority to rule on whether a variety of items are 'good' REIT income.

In December 2009, the Internal Revenue Service issued public guidance confirming that through 2011 a US-listed REIT may satisfy its distribution requirement by offering its shareholders the ability to choose to receive either cash or stock of the REIT so long as at least 10% of the dividend is made in cash. In January 2011, the IRS issued public guidance to better allow a REIT that has made a loan that has declined in value to "work out" the distressed loan.

2 Requirements

2.1 Formalities / procedure

Key requirements
Entities must file Form 1120-REIT with the Internal Revenue Service.

To elect REIT status in the US, a company must file a special tax return (Form 1120-REIT) for the year in which the company wishes to become an REIT. There is no requirement to request prior approval or to submit prior notification of regime election. Furthermore, the REIT must annually send letters of record to its shareholders requesting the details of the beneficial share ownership. Modest monetary penalties may be imposed on an REIT that fails to send these letters unless it is shown that a failure is due reasonable cause and not willful neglect.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Any legal US entity taxable as a domestic corporation.	No

Legal form

A US REIT can have the form of any legal US entity (corporation, partnership, business trust, limited liability company, etc), which is taxable as a domestic corporation. This status can be achieved by a 'check the box' election with the IRS. As a result, the entity would be treated as a corporation for tax purposes. However, the company cannot qualify for this option if it is a financial institution such as a bank or an insurance company.

Further requirements are that the REIT has to be managed by one or more trustees or directors, and that the shares of a US REIT must be transferable.

A taxable REIT subsidiary is permitted to be located or organised abroad.

Minimum share capital

There is no minimum share capital requirement for a REIT.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
- At least 100 shareholders. - Five or fewer individuals or foundations may not hold more than 50% of the shares. - No restriction on foreign shareholders.	No

Shareholder requirements

Firstly, REIT shares must be transferable. Beginning with the REIT's second taxable year, the REIT is required to have a minimum of 100 shareholders. Also, no more than 50% of its shares may be held by five or fewer individuals or private foundations during the last half of the taxable year. A number of 'look through' rules can determine whether the latter criterion is met.

Various stock classifications (i.e. different classes of shares such as common stock and preferred stock) are allowed. However, all shareholders within the same class of stock must be treated equally. Otherwise, dividends from such classes of stock would no longer be considered eligible for the dividends paid deduction. In February 2011, the Obama Administration proposed repealing these so-called "preferential dividend" rules for all listed US REITs. Further, the Obama Administration proposed that the Treasury Department be provided the express authority to cure inadvertent failures of the preferential rules by non-listed REITs.

No restriction on foreign shareholders other than possible 'FIRPTA' consequences, under which foreign shareholders are treated as doing business in the US, unless certain exceptions apply.

Listing requirements

Listing is not mandatory to obtain REIT status. A private REIT is allowed.

2.4 Asset level / activity test

Restrictions on activities / investments
- At least 75% of its assets must be real estate, government securities or cash - 75% asset test and 75% and 95% income tests. - Cannot own more than 10% of another corporation's stock, other than in another REIT or a taxable REIT subsidiary (ownership of a 100% owned 'qualified REIT' subsidiary is ignored). - No more than 5% of the value of its assets can be represented by securities of any one issuer, other than another REIT or a taxable subsidiary (ownership of a 100% owned 'qualified REIT' subsidiary is ignored). - Cannot own more 25% of is assets in securities of one or more taxable REIT subsidiaries.

75% of an REIT's assets must be comprised of real estate (including mortgages), government securities or cash items. The IRS is currently considering whether a money market fund is a cash item. At least 75% of the gross income must be derived from real estate property rental or from interest on mortgages on real estate property. Furthermore, at least 95% of the gross income must come from a combination of real estate related sources and passive sources, such as dividends and interest. No more than 5% of an REIT's income may come from non-qualifying sources.

At the end of each quarter, the REIT may not have securities of taxable REIT subsidiaries that represent more than 25% of the REIT's total asset value. Further restrictions apply. As part of renting real estate, a REIT is allowed to provide all kinds of tenant services expected in the real estate rental business. Services are broad and extensive, e.g. providing utilities (sub-metering), security services, cleaning services, internet and cable TV, etc.

A US REIT is allowed to own, operate, manage and develop real estate for its own portfolio. If it develops real estate for third parties, the resulting income is disqualified and must fit under the 5% 'bad income' allowance. US REITs may develop real estate for third parties or trade real estate through their taxable REIT subsidiaries (TRS).

A REIT is allowed to invest in non-US assets.

A REIT's ownership interests in a partnership are ignored. Instead, the REIT is considered an owner of the partnership's assets to the extent of the REIT's capital interest in the partnership. Also, the ownership of one REIT by another REIT is considered the ownership of real estate, i.e. a good asset. If the REIT is a shareholder of a company other than another REIT or a TRS, then the REIT cannot own more than 10% of the shares. Further, the REIT may have no more than 5% of its total assets represented by securities of any one issuer other than another REIT or a TRS.

2.5 Leverage

Leverage
No legal restrictions.

There are no statutory or regulatory leverage limits for US REITs.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
At least 90% of its taxable ordinary income.	Not required to distribute.	Annually.

Operative income

US law requires the REIT to annually distribute at least 90% of its ordinary taxable income in form of dividends. If an REIT declares a dividend in the last quarter of the year, but pays it by the end of January, the dividend distribution is treated as if it had occurred the previous December. These “relationship back-rules” apply if the REIT makes the actual distribution the following year. However, a 4% excise tax is imposed if the REIT fails to distribute at least 85% of its income within the year the income is generated.

Capital gains

US REITs are not required to distribute capital gains. Capital gains not distributed are subject to corporate income tax, but then the shareholders get an increased tax basis for their pro rata share of the tax.

2.7 Sanctions

Penalties / loss of status rules
- Various penalties. - Possible loss of REIT status.

Various penalties may occur. If insufficient income was distributed, the REIT may compensate with taxable deficiency dividends. If the REIT fails a *de minimus* amount of the asset test, it must fix the failure within six months of discovery. If the REIT fails the asset test by more than a *de minimus* amount, the REIT must pay corporate taxes on all income from non-qualified assets. In this case, it must also show reasonable cause for the failure. A USD 50,000 penalty is imposed for failures other than the asset test failures. Reasonable cause must also be proven in such cases. If there is no reasonable cause, then the REIT may technically lose its REIT status. Usually, however, the IRS will consider a closing agreement for some lesser amount.
If the REIT fails either the 75% or 95% gross income tests, it is subject to a penalty essentially equal to 100% of the amount by which it failed the respective tests, less allocable deductions.

After the loss of REIT status, the entity must observe a five-year waiting period before it can re-apply. Sometimes the government may waive this penalty, depending on the reasonable cause.

A USD 50,000 penalty is imposed if the REIT shareholder limitations are disregarded. Unless excused by reasonable cause or by obtaining a closing agreement, the loss of REIT status would ensue.

3 Tax treatment at level of the REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Tax-exempt to extent distributed.	Tax-exempt to extent distributed.	- No refund of foreign withholding tax. - It can use a foreign tax as deduction.

Current income

Distributed dividends are deducted in calculating a REIT's taxable income. Retained income is subject to ordinary corporate income tax, but tax depreciation deductions are made in calculating taxable income. Dividends from ordinary income are generally taxed as ordinary dividends. The profits of a taxable subsidiary are subject to corporate income tax.

A REIT that acts as a dealer, as contrasted with an investor, is 100% subject to an excise tax on the profit from dealer sales. There is a safe harbor under which a REIT can be certain it will not be subject to the 100% excise tax if it complies with multiple objective tests.

Non arms-length transactions conducted with a taxable REIT subsidiary (as well as non-arm's length transactions between a TRS and a REIT's tenants) are 100% taxable.

Capital gains

Retained capital gains are subject to corporate income tax.

Withholding tax

A US REIT is not entitled to obtain a refund for its foreign withholding tax credit. The credit applies to its foreign source income. However, it can use a foreign tax as a deduction.

Other taxes
State income tax regimes virtually always follow the federal income tax rules.

Accounting rules
US GAAP rules apply. A US REIT and its subsidiaries must file a consolidated financial statement.

3.2 Transition regulations

Conversion into REIT status
- 'Built-in gains' are taxable. - Exemption is possible if assets held for ten years.

By the end of the REIT's first taxable year, the REIT must distribute all the earnings and profits for years before it became an REIT. Also, the REIT must pay a corporate tax on 'built-in gains' (the value of its assets at the time of REIT conversion minus the assets' tax basis). The taxes may be excused only if the REIT makes an election not to sell or exchange those assets in a taxable transaction for ten years, and it does not enter into any taxable transactions with respect to these assets during the ten-year period. 'Like kind' exchanges in which no built in gain occurs are permitted.

Many REITs use an UPREIT structure, which means 'Umbrella Partnership'. Under this structure, the REIT's sole asset is its interest in a partnership called the 'Operating Partnership' (OP). The REIT almost always has the general partner interest and typically owns more than half of the partnership interests. Property owners transfer either their assets or partnership interests to the OP in exchange for limited partnership interests (LP Units). As with any other transfer to a partnership, the contribution of these assets, or other partnership interests, is a tax-deferred transaction in which gain is not realised until the transferor's debt obligations shift or the transferor disposes the partnership interest in a taxable transaction. Usually after a year, the OP limited partners may exchange their OP Units either to the REIT or the OP (depending on the particular transaction), and then the REIT or the OP, as the case may be, has the option of either transferring to the LP Unitholder REIT stock on a one-for-one basis with each Unit the LP Unitowner exchanges, or cash equal to the fair market value of such stock. The exchange of the LP Units for REIT stock or cash is a taxable transaction.

3.3 Registration duties

Registration duties
Transfer tax.

Real estate acquisition is usually subject to transfer taxes in most states.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Income, capital gains, and return of capital distributions are taxed at a rate of 35%.	- Capital gain dividends are taxed at the maximum 15% rate. - Return of capital is tax-deferred.	N/A

Corporate shareholder
US corporations pay the same 35% rate on REIT capital gains and REIT ordinary income distributions. Corporate shareholders do not receive typical dividends received deduction with respect to REIT dividends. The return of capital distribution reduces the shareholder's tax basis in its shares of the REIT.

Individual shareholder

An individual US shareholder is subject to an income tax of up to 35% on ordinary dividends distributed by a qualifying REIT. The top marginal tax rate on US taxpayers is scheduled to rise to 39.6% on January 01, 2013.

REIT ordinary dividends qualify for the 15% rate only if they are paid out of income that has already been subject to corporate taxes, e.g. dividends attributable to distributions from a taxable REIT subsidiary. The top marginal rate on dividends is scheduled to rise to 39.6% on January 01, 2013.

Shareholders are taxed on capital gain distributions from assets the REIT held for at least one year at a 15% rate. The top rate on capital gains is scheduled to rise to 20% on January 01, 2013. However, if the gain is attributable to the recapture of depreciation, the tax burden is 25%.

Return of capital distributions reduce the shareholder's tax basis and are therefore tax-deferred. To the extent a return of capital distribution exceeds tax basis, it is treated as sale of the stock and the gain is taxable at the 15% maximum rate (again, scheduled to rise to 20% on January 01, 2013). (The return of capital rules for a REIT are the same as for non-REIT corporations).

Withholding tax

No withholding tax is levied on distributions to US shareholders.

4.2 Foreign shareholders

Corporate shareholders	Individual shareholders	Withholding tax
- 30% on income dividends. - 35% on capital gain dividends. - 10% on return of capital.	- 30% on income dividends. - 35% on capital gain dividends. - 10% on return of capital.	Tax treaty relief available.

Corporate shareholders

Final withholding tax.

Individual shareholders

Final withholding tax.

Withholding tax

A withholding tax of 30% is levied on income dividends. This rate may be reduced by a double tax treaty. The US usually imposes a 15% tax on dividends paid by countries with which the US has a valid double tax treaty. The amount of the repayment of capital which is not subject to a withholding tax is taxed at a rate of 10%. The rate returns to 30% in most treaties for foreign shareholders who own more than 10% of a REIT. Non-US pension funds and certain governmental entities such as sovereign wealth funds might benefit from a tax exemption.

Capital gain dividends attributable to the sale of US real property are subject to the Foreign Investment in Real Property Tax Act (FIRPTA). According to FIRPTA, foreign shareholders are treated as if they were US taxpayers. Unless the shareholder owns 5% or less of a listed REIT, the capital gain dividends are subject to a 35% (plus branch profit tax) withholding tax. If the shareholder does own 5% or less of the REIT shares, then the treatment of capital gain dividends is similar to the treatment of ordinary dividends.
A return of capital distribution is subject to 10% withholding tax. If a withholding certificate is obtained, 0%.

Sales of stock of a listed REIT (if the non-US shareholder owns 5% or less of the REIT) or of any domestically controlled REIT are not subject to FIRPTA or any US tax.

5 Treatment of foreign REITs and their domestic shareholders

Foreign REIT	Corporate shareholder	Individual shareholder
Generally 30% withholding tax.	- Dividend distributions are taxed at a rate of 35%. - Return of capital is tax deferred.	- Dividends are generally taxed at the 15% rate if foreign REIT is not a 'PFIC'. - Return of capital is tax-deferred.

Foreign REIT
Unless the foreign REIT elects to be taxed on a net basis, or is actively operating rental property so that it is considered doing business in the US, there is a 30% withholding tax on gross rental income. Most non-US investors filing as a US business heavily leverage to reduce US taxable income.

Corporate shareholder
US corporate shareholders generally are taxable at a 35% rate on distributions from foreign REITs. The return of capital distribution reduces the shareholder's tax basis in its shares of the REIT. Furthermore, there is no credit available to US corporate shareholders for US withholding taxes paid by the foreign REIT with respect to US source income. Generally, these dividends are not eligible for the dividends received deduction applicable to dividends from US corporations.

Finally, if the foreign REIT is considered a 'passive foreign investment company' (PFIC), which may be the case if the rental income of the foreign REIT is not attributable to the activities of its own employees, a US shareholder either is subject to tax and substantial interest charges upon receipt of a distribution from the PFIC (or disposition of the PFIC stock), or may elect instead to be taxed on the PFIC investment on a current basis using an earnings flow-through approach or a mark-to-market approach.

Individual shareholder
An individual US shareholder is generally subject to an income tax at the maximum rate of 15% on dividends distributed by a foreign REIT if the foreign REIT is both eligible for treaty benefits under a US tax treaty and is not a PFIC, as described above. Return of capital distributions reduce the shareholder's tax basis and are therefore tax-deferred. To the extent a return of capital distribution exceeds tax basis, it is treated as sale of the stock and the gain is taxable at the 15% maximum rate. The return of capital rules for a REIT are the same as for non-REIT corporations. Furthermore, there is no credit available to a US individual shareholder for US withholding taxes paid by the foreign REIT with respect to US source income.

If the foreign REIT is considered a PFIC, which may be the case if the rental income of the foreign REIT is not attributable to the activities of its own employees, an individual US shareholder either is subject to tax at rates of up to 35% and substantial interest charges upon receipt of a distribution from the PFIC (or disposition of the PFIC stock), or may elect instead to be taxed on the PFIC investment on a current basis using an earnings flow-through approach or a mark-to-market approach. ■

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Global REIT Survey 2011

September

Africa

South Africa

(PUT and PLS company)

Content

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EPRA REPORTING

European Public Real Estate Association

Caveat: All information in this paper is based on our research as at June 2010. No reliance should be placed on nor should decisions be taken on the basis of the contents of this brochure. Any party or individual involved in the preparation of this brochure shall bear no responsibility for the consequences of any action taken on the basis of information contained herein, including errors and omissions. Throughout this survey, all REIT data provided in the "Sector summary (end of July 2010)" have been kindly provided by Macquarie Global Property Securities Analytics.

For any questions or feedback related to this survey, please contact:

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1 General introduction

	Enacted year	Citation	REIT type
PUT	PUTs were introduced in the market in 1969 and the Collective Investment Schemes Act was enacted in 2003[1].	Part V of the Collective Investment Schemes Control Act No 45 of 2002.	Trust (Shows some characteristics of a REIT).
PLS	The Companies Act was enacted in 2009.	Companies Act No71 of 2008[2]	Company.

In the South African context, REITs do not exist, however, comparable vehicles are a Property Unit Trust (PUT) or a Property Loan Stock Company (PLS company)[3].

A PUT holds immovable property and shares in property companies. A PUT is managed by a management company, which makes a market in the participation units. A South African PUT is legally regulated by the Collective Investment Schemes Control Act No 45 of 2002 ('the Collective Investment Schemes Act').

The main difference between a PUT and a PLS company, is that a PLS company is a company regulated by the Companies Act No 71 of 2008 ('the Companies Act') and is not required to comply with the Collective Investment Schemes Act. Unlike a unit holder in a PUT, an investor in a linked unit in a PLS company holds both equity and a debenture.

The South African National Treasury is currently considering the introduction of the internationally adopted REIT structure into the South African environment. Key drivers in this process are observations that the existing property investment vehicles are "partly regulated and the regulatory framework is too restrictive and not internationally competitive[4]" and that there are inconsistencies in the tax treatment of PLS companies and PUTs.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance 12 Months %	Sector Mkt cap €bn[5]	% of Global REIT MKT
South Africa	5	10,0	4,2	0,7%

Top five REITs

Company Name	Market cap (€m)	Sector type
Capital Property Fund	1.479	Industrial, Office, Others, Retail
Fountainhead Property Trust	778	Healthcare, Industrial, Infrastructure, Office, Retail
SA Corporate Real Estate Fund	733	Industrial, Office, Others, Retail
Emira Property Fund	704	Industrial, Office, Retail
Sycom Property Fund	464	Office, Retail

2 Requirements

2.1 PUT: Formalities / procedure

Key requirements
- Managed by a management company incorporated or registered in terms of the Companies Act. - A collective investment scheme is required to have an association licence. - Compliance with the JSE Limited regulatory requirements for securities exchange listing.

[1] Before 2003 the REIT regime was governed by several acts dating back to 1981
[2] The Companies Act No71 of 2008 came into effect 1 May 2011. Prior to this date, a PLS company was regulated by the Companies Act No 61 of 1973
[3] South Africa (2007) The Department of National Treasury. Reforming the Listed Property Investment Sector in South Africa – Discussion paper: "Introduction", December 3. The National Treasury is still considering the legislation around collective investment and property schemes. We still await the updated discussion paper and / or further consideration.
[4] South Africa (2007) The Department of National Treasury, supra note 1, at Part 1 "A need for change"
[5] Information obtained from www.Financial-advice.co.za

A PUT holds a portfolio of investment grade properties and is listed on the JSE Limited ('the JSE') under the 'Real Estate' sector.

PUTs are highly regulated vehicles in that they are governed by the Collective Investment Schemes Act and must comply with the JSE listing requirements.

The affairs of the PUT are managed by a management company ('the manager') incorporated or registered in terms of the Companies Act and approved as the manager by the Registrar of Collective Investment Schemes ('the Registrar'). The functions of the manager include the buying and selling of 'units' in the PUT from or to the public, the day-to-day operations of the PUT, and defining and managing the investment strategy of the PUT.

The operations of the management company are governed by a Trust Deed between the management company and the Trustees. The Trust Deed and the selected Trustees must be approved by the Registrar. A collective investment scheme is required to have an association licence, which is issued and renewed annually by the registrar[6]. In South Africa, the Association of Property Unit Trusts is the established association for PUTs.

PLS: Formalities / procedure

Key requirements
- Registered in terms of and compliance with the Companies Act; and - Compliance with the JSE regulatory requirements for securities exchange listing, if listed.

A PLS company holds a property portfolio and is required to be incorporated or registered in terms of the Companies Act. A PLS company is not subject to the provisions of the Collective Investment Schemes Act. Unlike a PUT, the management activities of a PLS company rest with the PLS company itself and not with an external management company.

[6] Section 25(3) of the Collective Investment Schemes Act

The conditions and terms of debentures issued to investors (which include the interest payable and the repayment terms) must be prescribed in a debenture trust deed. Independent Trustees must be appointed to oversee the interests of the debenture holders.

The listing of a PLS company on the JSE is not a requirement. However, those PLS companies listed on the JSE are required to comply with the JSE listing requirements.

The registration of a PLS company with the Property Loan Stock Association (PLSA) is voluntary.

2.2 Legal form / minimum initial capital

	Legal form	Minimum initial capital
PUT	Usually unit trust.	No
PLS	Company.	No

Legal form: The PUT is a unit trust, regulated by the Collective Investment Schemes Act.
A PLS company is a company regulated by the Companies Act and is a legal person for the purposes of South African law.

Minimum initial capital: There is no minimum initial capital amount required for the establishment of a PUT or a PLS company.

2.3 Unit holder requirements / listing requirements

	Unit holder requirements	Listing mandatory
PUT	No requirements.	Yes
PLS	No requirements.	No

Unit holder requirements

There are no specific requirements for the unit holders of a PUT, other than compliance with the JSE listing requirements.

There are no specific requirements for the holder of a linked unit in a PLS company, other than compliance with the JSE trading requirements in the case of a listed PLS company.

The sale and acquisition of units in a PUT or a listed PLS company must comply with the JSE regulatory requirements for securities exchange. Such requirements include compliance with the Financial Intelligence Centre Act (No 38 of 2001) (FICA) and the Securities Services Act (No 36 of 2004). The purchase and sale of units in a PUT or a listed PLS company, can only be done through a stockbroker. Units in PUTs or PLS companies may only be purchased in tranches of a minimum of 100 units.

Listing requirements

A PUT must be listed on the JSE under the 'Real Estate' sector.

The listing of a PLS company on the JSE is voluntary. Where a PLS company is listed on the JSE, the requirements will be the same as for PUTs listed on the JSE.

2.4 Asset level / activity test

	Restrictions on activities / investments
PUT	- PUTs may invest in the shares of property companies, in immovable property and other property as determined by the registrar. - May invest in foreign assets.
PLS	- No restrictions other than those imposed in terms of the memorandum and articles of association.

PUTs may invest in shares of property companies, in immovable property and other assets, as determined by the Registrar[7].

[7] Section 47(2) of the Collective Investment Schemes Act

Investment in the following other assets are subject to certain limitations, as prescribed by the Registrar[8]:

- Participatory interests in a collective investment scheme in property;
- Linked units in property loan stock companies; and
- Shares or interests in companies or concerns that derive their income solely from property related investments listed on an exchange in South Africa.

The following limits and conditions are imposed on the above investments:

- the total investment exposure to assets include in a portfolio may not exceed 25% of the market value of all assets comprised in a portfolio;
- all assets issued by a single concern may not exceed 10% of the market value of all assets comprised in a portfolio; and
- a manager (administrator of a collective investment scheme) must obtain prior consent of the Trustee for the inclusion of any asset in a portfolio.

The above limits may only be exceeded by virtue of the appreciation or depreciation of the market value of the underlying assets comprised in the portfolio, or as a result of any corporate action by any of such concern. This is provided that a manager may not make any further investment in the asset in question as long as any limit determined above is exceeded.
A PUT may only invest in property in a foreign country and property shares or participatory interests in a collective investment scheme in property in a foreign country, if that foreign country has a foreign currency sovereign rating by a rating agency. The rating and rating agency must be determined by the registrar. Currently the requirement is a rating of 'Baa2' or higher by Moody's Investors Service Limited, or 'BBB' or higher by Standard and Poor's, or by Fitch Ratings Limited, or by Fitch Southern Africa (Pty) Limited[9]. Where the country has been rated by more than one agency, the lower of the ratings applies.

[8] "Determination Of Assets Which May Be Included In A Portfolio of Collective Investment Scheme in Property" Published under General Notice 572 in Government Gazette 31041 of May 16, 2008
[9] "Foreign Countries In Which Collective Investment Scheme In Securities Or In Property May Invest" Published under General Notice 2073 in Government Gazette 25283 of August 01, 2003

It follows that, subject to the above, a PUT may invest directly or indirectly in immovable property abroad or locally. A PUT may also invest in single real estate and residential property (this would constitute immovable property). There are no specific restrictions with regards to a PUT investing in a subsidiary. Only a Collective Investment Scheme in Securities may invest in fixed properties which own and develop various types of properties[10].

There are no restrictions on the activities of a PLS company, other than those prescribed by the Companies Act and the PLS company's articles and memorandum of association. A PLS company can invest in another PLS company, a PUT, property development companies or any other security, both locally or abroad[11].

2.5 Leverage

	Leverage
PUT	Debt financing is limited to 30% of the value of the underlying assets.
PLS	Debt financing is limited by the memorandum and articles of association, and the Companies Act.

PUTs are permitted to gear up to levels of 30% of the value of the underlying assets[12]. It has been suggested that this could be increased to 60% [13].

The debt financing of a PLS company is limited in terms of the company's memorandum of association and the Companies Act.

[10] Discussion paper on *Reforming the Listed Property Investment Sector in South Africa*, page 12, December 2007

[11] Discussion paper on *Reforming the Listed Property Investment Sector in South Africa*: 4.2, "Income and asset rules", December 2007

[12] The Financial Services Board model deed has limited gearing to 30%.

[13] South Africa (2007) The Department of National Treasury, supra note 1, at 4.4 "Gearing limits"

2.6 Profit distribution obligations

	Operative income	Capital gains	Timing
PUT	No requirement.	Capital gains must be reinvested.	N/A
PLS	No requirement.	No requirement.	N/A

Operative income

There are no minimum distribution requirements.

The deed of the Collective Investment Scheme in Property must stipulate the manner in which distributions are to be determined and settled[14]. Income distributed by the PUT to unit holders is not taxed in the trust. However, income not distributed by the PUT will be taxed within the trust if not vested in the unit holder.

A PLS company typically distributes all of its revenue profits through interest on issued debentures and the balance as dividends.

Capital gains

Capital gains are to be reinvested and cannot be distributed to unit holders (except on termination of the PUT).

The distribution of capital gains by a PLS company will be determined by the provisions of the company's memorandum and articles of association.

2.7 Sanctions

	Penalties / loss of status rules
PUT and PLS	- Non-compliance with the Collective Investment Schemes Act. - Non-compliance with the JSE requirements. - Non-compliance with the Companies Act.

[14] Section 97 of the Collective Investment Schemes Act: Schedule 2 "Matters Which Must Be Provided For In Deed Of Collective Investment Scheme In Property"

There are specific sanctions for non compliance with the Collective Investment Schemes Act, the Companies Act and the JSE requirements, which may result in the renunciation of the PUT's or PLS company's approved status.

3 Tax treatment at the level of PUT and PLS

3.1 PUT: Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
- Distributed income tax-exempt. - Undistributed income is subject to a tax rate of 40%.	A PUT is not subject to Capital Gains Tax.	Currently South African withholding taxes are unlikely to apply, but going forward exposure could arise.

Please note that comments below refer to returns from investment in South Africa and not offshore investments.

Current income

It is generally accepted that a property collective investment scheme is treated for tax purposes in a similar manner to that of a trust. The key aspect of this is that the conduit principle applies to income that is distributed to the unit holders, in that it retains its original nature. Therefore, a property collective investment scheme would have all income that is received by it for its own benefit included in its gross income. To the extent that income vests in or is distributed to a unit holder during the year that it was earned, that income is taxable in the hands of the unit holder.

It should be noted that where the underlying investment is a property company as defined in the Collective Investment Schemes Act, in terms of the Income Tax Act No 58 of 1962 ('the Income Tax Act'), any dividend (other than those distributed out of profits of a capital nature) received from the property company is not exempt from tax, unlike other dividends. This dividend retains its non-exempt nature on distribution to the unit holder.

Any income that is retained in the property collective investment scheme attracts tax at a rate of 40%.

Capital gains

A collective investment scheme does not pay tax on capital gains.

When a collective investment scheme sells an asset, the unit holder does not account for the capital gain/loss[15]. The holder only accounts for the capital gain/loss when he/she disposes their interest in the unit[16]

Withholding tax

Currently South Africa imposes withholding taxes only on royalties or similar payments, proceeds from the disposal of an interest in South African immovable property, and payments to foreign entertainers and sportspersons. It is unlikely that such taxes could be imposed at the level of the PUT.

However South African tax authorities have introduced withholding taxes in respect of dividends with effect from 1 April 2012 and in respect of interest with effect from 1 January 2013.The withholding tax on dividends will generally apply in respect of dividends accruing to a PUT from its investments in South Africa. The withholding tax on interest will generally not apply since this tax is not imposed on South African tax residents.

Accounting Rules

The recognition criteria in terms of IAS18 – Revenue – of the International Financial Reporting Standards (IFRS) are as follows:

- Interest shall be recognised using the effective interest method;
- Rental income shall be recognised with reference to a stage of completion of the lease period i.e. the rental income will be spread over the lease period with consideration of lease escalation;
- Dividends shall be recognized when the shareholders right to receive payment is established i.e. when the dividend is declared.

15 Paragraph 67A(1) of the Eighth Schedule of the Income Tax Act
16 Paragraph 67A(2) of the Eighth Schedule of the Income Tax Act

PLS: Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
- Corporate tax rate of 28%.	- Capital gains are taxed at an effective tax rate of 14%.	Currently South African withholding taxes are unlikely to apply, but going forward exposure could arise.

Please note that comments below refer to returns from investment in South Africa and not offshore investments.

Current income

The income tax provisions relating to companies apply to a PLS company. A PLS company is taxed on taxable income at the corporate rate of 28%.

PLS companies typically earn the following income:

- Rental income where the PLS company owns property;
- Interest income from subsidiary PLS companies; and
- Dividend income from investments in property companies.

Interest incurred in respect of debentures issued to investors is tax deductible.

Dividends declared by a PLS company are subject to STC at a rate of 10% on the net dividend distributed.

Capital gains

PLS companies are subject to capital gains tax at an effective rate of 14% (28% x 50%).

Withholding tax

Currently South Africa imposes withholding taxes only on royalties or similar payments, proceeds from the disposal of an interest in South African immovable property, and payments to foreign entertainers and sportspersons. It is unlikely that such taxes could be imposed at the level of the PLS.

However South African tax authorities have introduced withholding taxes in respect of dividends with effect from April 2012 and in respect of interest with effect from January 2013.The withholding tax on dividends will generally not apply in respect of dividends accruing to a PLS from its investments in South Africa. The withholding tax on interest will generally not apply since this tax is not imposed on South African tax residents.

Accounting Rules

The recognition criteria in terms of IAS18 – Revenue – of IFRS are as follows:

Interest shall be recognised using the effective interest method.

Rental income shall be recognised with reference to the stage of completion of the lease period i.e. the rental income will be spread over the lease period with consideration of lease escalation.

Dividends shall be recognized when the shareholder's right to receive payment is established i.e. when the dividend is declared.

3.2 Transition regulations

Conversion into PUT or PLS status.
N/A

A company cannot be converted into a PUT.

3.3 Registration duties

Registration duties.
No specific rules.

There are no specific registration duties applicable to a PUT or PLS company. These vehicles will need to comply with general initial set-up requirements for trust, companies or JSE listing requirements. Annual fees may be required in respect of the specific vehicle i.e. JSE annual listing fees, annual duties for PLS etc.

4 Tax treatment at the unit holder's level

4.1 PUT: Domestic unit holder

	Corporate unit holder	Individual unit holder	Withholding tax
PUT	- Distributed interest and rental income taxed at 28% as if income was directly received. - Taxation of capital gains on disposal (if not dealer) 50% of the gain is included in taxable income (resulting in an effective rate of 14%).	- Distributed interest and rental income taxed at the individual tax rate (between 18% and 40%) as if income was directly received. - Taxation of capital gains on disposal (if not dealer) 25% of the gain is included in taxable income (resulting in an effective rate between 4.5% and 10%).	Currently South African withholding taxes are unlikely to apply, but going forward exposure could arise.

Corporate unit holder

As previously stated the conduit principle is applied to the PUT. As a result, where a unit holder has invested in the scheme and any income is vested in or distributed to that unit holder during the year that it was earned, that income will retain its original nature in the hands of the unit holder.

There are three major types of income that could be earned:

- Interest;
- Rental; and
- Dividends from property companies.

Interest and rental income that is vested in or distributed to the unit holder is fully taxable in that taxpayer's hands.

Dividends vested in or distributed to the unit holder are taxable to the extent that they were originally distributed by a property company in the property collective investment scheme's portfolio out of revenue income (i.e. dividends out of capital profits of the property company are exempt).

A deduction can be claimed for expenditure actually incurred by the unit holder to the extent that the unit holder has incurred that expenditure in order to earn the taxable income, provided that the expenditure is not of a capital nature.

The taxation of any profit on disposal of the participatory right by the unit holder will depend on whether that unit holder is a dealer and engaged in a profit-making scheme with regards to such participatory rights. If so, the full profit on sale of such participatory right is taxed at the corporate tax rate (currently 28%). If the unit holder is an investor rather than a dealer, 50% of the gain is included in taxable income (resulting in an effective rate of 14%).

Income that was retained in the PUT will have attracted tax at a rate of 40% in the hands of the PUT, and will not be subject to tax at the level of the unit holder once subsequently distributed.

Withholding tax

Currently South Africa imposes withholding taxes only on royalties or similar payments, proceeds from the disposal of an interest in South African immovable property, and payments to foreign entertainers and sportspersons. It is unlikely that such taxes could be imposed at the level of the PLS.

However South African tax authorities have introduced withholding taxes in respect of dividends with effect from April 2012 and in respect of interest with effect from January 2013.The withholding tax on dividends will generally not apply in respect of dividends accruing to a unit holder from its investments in South Africa. The withholding tax on interest will generally not apply if the unit holder is tax resident in South Africa.

Individual unit holder

The taxation is the same as for corporate unit holders with the following differences:

An individual unit holder has an additional exemption that relates to interest and dividends received that are not otherwise exempt in terms of the Income Tax Act. This exemption is in respect of the first R 22,800[17] (or R 33,000 in the

[17] Section 10(1)(i)(xv)(bb) of the Income Tax Act

case of an individual who is 65 years or older)[14] of interest and non-exempt dividends (other than foreign dividends) received during the fiscal year.
The taxation of any profit on disposal of the participatory right by the unit holder will depend on whether that unit holder is a dealer in such participatory rights. If so, the full profit on sale of such participatory right is taxed at the marginal tax rate of the unit holder (currently between 18% and 40%). If the unit holder is an investor rather than a dealer, 25% of the gain is included in taxable income (resulting in an effective rate of 10% at the maximum marginal rate). An individual is entitled to an exclusion of R17,500 in respect of any capital gains or losses each year[18].

Income that was retained in the PUT will have attracted tax at a rate of 40% in the hands of the PUT. When the income is distributed to the unit holder, it will not be subject to tax at the level of the unit holder once subsequently distributed.

Withholding tax

Currently South Africa imposes withholding taxes only on royalties or similar payments, proceeds from the disposal of an interest in South African immovable property, and payments to foreign entertainers and sportspersons. It is unlikely that such taxes could be imposed at the level of the unit holder.

However South African tax authorities have introduced withholding taxes in respect of dividends with effect from April 2012 and in respect of interest with effect from January 2013.The withholding tax on dividends will generally apply in respect of dividends accruing to a unit holder from the PUT. Withholding tax on interest will generally not apply if the unit holder is tax resident in South Africa.

[18] Paragraph 5(1) of the Eighth Schedule

PLS: Domestic unit holder

	Corporate unit holder	Individual unit holder	Withholding tax
PLS	- Interest income received taxed at corporate rate of 28%. - Dividend income exempt if unit holder is not a collective investment scheme. - Taxation of capital gains on disposal (if not dealer) 50% of the gain is included in taxable income (resulting in an effective rate of 14%).	- Interest income received taxed at the individual tax rate (between 18% and 40%). - Dividend income exempt (subject to certain thresholds). - Taxation of capital gains on disposal (if not dealer) 25% of the gain is included in taxable income (resulting in an effective rate between 4.5% and 10%).	Currently South African withholding taxes are unlikely to apply, but going forward exposure could arise.

Corporate unit holder

A unit holder in a PLS company will receive interest income in respect of the issued debentures, and dividend income in respect of the shares with regards to each unit held. The interest income is taxable in the hands of the unit holder. Dividend income distributed by a PLS company is exempt from tax in the hands of the unit holder, except if the unit holder is a collective investment scheme and the dividends are paid out of revenue profits, in which case the dividend income is taxable in the hands of the unit holder.

A deduction can be claimed for expenditure actually incurred by the unit holder to the extent that the unit holder has incurred that expenditure in order to earn the taxable income and provided that the expenditure is not of a capital nature.

The taxation of any profit on disposal of the linked units will depend on whether that unit holder is a dealer in such participatory rights. If so, the full profit on sale of such participatory right is taxed at the corporate tax rate (currently 28%). If the unit holder is an investor rather than a dealer, 50% of the gain is included in taxable income (resulting in an effective rate of 14%).

Withholding tax
Currently South Africa imposes withholding taxes only on royalties or similar payments, proceeds from the disposal of an interest in South African immovable property, and payments to foreign entertainers and sportspersons. It is unlikely that such taxes could be imposed at the level of the PLS.

However South African tax authorities have introduced withholding taxes in respect of dividends with effect from April 2012 and in respect of interest with effect from January 2013.The withholding tax on dividends will generally not apply in respect of dividends accruing to a unit holder from its investments in South Africa. The withholding tax on interest will generally not apply if the unit holder is tax resident in South Africa.

Individual unit holder
The taxation is the same as for corporate unit holders with the following differences:

An individual unit holder has an additional exemption that relates to interest and dividends received that are not otherwise exempt in terms of the Income Tax Act. This exemption is in respect of the first R 22,800[19] (or R 33,000 in the case of an individual who is 65 years or older) of interest and non-exempt dividends (other than foreign dividends) received during the fiscal year.
The taxation of any profit on disposal of the participatory right by the unit holder will depend on whether that unit holder is a dealer in such participatory rights. If so, the full profit on sale of such participatory right is taxed at the marginal tax rate of the unit holder (currently between 18% and 40%). If the unit holder is an investor rather than a dealer, 25% of the gain is included in taxable income (resulting in an effective rate of 10% at the maximum marginal rate). An individual is entitled to an exclusion of R 17,500 in respect of any capital gains or losses each year.

Withholding tax
Currently South Africa imposes withholding taxes only on royalties or similar payments, proceeds from the disposal of an interest in South African immovable property, and payments to foreign entertainers and sportspersons. It is unlikely that such taxes could be imposed at the level of the unit holder.

[19] Section 10(1)(i)(xv)(bb) of the Income Tax Act

However South African tax authorities have introduced withholding taxes in respect of dividends with effect from April 2012 and in respect of interest with effect from January 2013.The withholding tax on dividends will generally apply in respect of dividends accruing to a unit holder from the PUT. Withholding tax on interest will generally not apply if the unit holder is tax resident in South Africa.

4.2 Foreign unit holder

	Corporate unit holder	**Individual unit** holder	**Withholding tax**
PUT and PLS	- Interest distributions to foreigners are generally tax-exempt. - Rental income fully taxable. - Capital gains taxed if asset attributable to South African permanent establishment or immovable property - Dividend income exempt	- Interest distribution to foreigners are generally tax-exempt. - Rental income fully taxable - Capital gains taxed if asset attributable to South African permanent establishment or immovable property	Currently South African withholding taxes are unlikely to apply, but going forward exposure could arise.

Corporate unit holder
A non-resident is only taxed in South Africa on income from a source within or deemed to be within the Republic. Capital gains tax is levied on the disposal of any asset which is attributable to a permanent establishment.

Capital gains tax is levied on a right of whatever nature of a person to or in immovable property situated in South Africa. Such interest in immovable property situated in South Africa includes a direct or indirect interest of at least 20% held by a non-resident in the equity shares of a company or any other entity. In addition, 80% or more of the value of the abovementioned company or other entity at the time of disposal of the shares or interest, must be attributable directly or indirectly to immovable property situated in South Africa other than immovable stock held as trading stock[20].

[20] Paragraph 2(1)(b) and paragraph 2(2) of the Eighth Schedule of the Income Tax Act

As previously stated the conduit principle is applied to the property collective investment scheme. As a result, where a unit holder has invested in the scheme and any income is vested in or distributed to that unit holder during the year that it was earned, that income will retain its original nature in the hands of the unit holder.

There are three major types of income that could be earned:

- Interest;
- Rental; and
- Dividends from property companies.

Interest that is vested in or distributed to the foreign corporate unit holder will be exempt from tax in South Africa if that unit holder does not carry on a business through a permanent establishment in South Africa (in this context permanent establishment means that as defined in the current OECD model tax treaty).

Rental income that is vested in or distributed to the foreign corporate unit holder is fully taxable in that taxpayer's hands.

Dividends vested in or distributed to the foreign corporate unit holder are not taxable

The taxation of any profit on disposal of the participatory right by the foreign unit holder (in either a PUT or a PLS company) will depend on whether that unit holder is a dealer in such participatory rights If so, and the source of the profit is from South Africa, the full profit on sale of such participatory right is taxed at the corporate tax rate (currently 28%).

Capital gains tax is also levied on the disposal of any unit in respect of which the holder is not a dealer, which is attributable to a permanent establishment or a right of whatever nature to or in immovable property situated in South Africa (see above).

The foreign corporate unit holder (in either a PUT or a PLS company) is entitled to treaty benefits.

Individual unit holder

A non-resident is only taxed in South Africa on income from a source within or deemed to be within the Republic. Capital gains tax is levied on the disposal of any asset which is attributable to a permanent establishment. In addition, in relation to non-residents, capital gains tax is levied on a right of whatever nature of a person to or in immovable property situated in South Africa. It is important to note that such interest in immovable property situated in South Africa includes a direct or indirect interest of at least 20% held by a non-resident in the equity shares of a company or any other entity, where 80% or more of the value of the company or other entity is at the time of disposal of the above-mentioned shares or interest, attributable directly or indirectly to immovable property in situated in South Africa other than immovable stock held as trading stock[21].

As previously stated the conduit principle is applied to the property collective investment scheme. As a result, where a unit holder has invested in the scheme and any income is vested in or distributed to that unit holder during the year that it was earned, that income will retain its original nature in the hands of the unit holder. There are three major types of income that could be earned:

- Interest;
- Rental; and
- Dividends from property companies.

Interest that is vested in or distributed to the foreign individual unit holder will be exempt from tax in South Africa if that unit holder has not been in South Africa for more than 183 days during the fiscal year.

Rental income that is vested in or distributed to the foreign individual unit holder is fully taxable in that taxpayer's hands.

Dividends vested in or distributed to the foreign individual unit holder are not taxable

An individual unit holder (in either a PUT or a PLS company) potentially has an additional exemption that relates to interest from a source in South Africa not otherwise exempt in terms of the Income Tax Act. This exemption is in

[21] Paragraph 2(1)(b) and paragraph 2(2) of the Eighth Schedule of the Income Tax Act

respect of the first R 22,800 (or R 33,000 in the case of an individual who is 65 years or older) of interest received during the fiscal year.

A deduction can be claimed for expenditure actually incurred by the unit holder (in either a PUT or a PLS company) to the extent that the unit holder has incurred that expenditure in order to earn the taxable income, provided that the expenditure is not of a capital nature.

The taxation of any profit on disposal of the participatory right by the unit holder (in either a PUT or a PLS company) will depend on whether that unit holder is a dealer in such participatory rights. If so, and the source of the profit is in South Africa, the full profit on sale of such participatory right is taxed at the marginal tax rate of the unit holder (currently between 18% and 40%). If the unit holder is an investor rather than a dealer, 25% of the gain is included in taxable income (resulting in an effective rate of 10% at the maximum marginal rate). An individual is entitled to reduce the amount of capital gains included in his taxable income by R 17,500 each year. The capital gain will be taxable in South Africa irrespective of the location of the source of the gain.

The foreign individual unit holder (in either a PUT or a PLS company) is entitled to treaty benefits.

Withholding tax

Currently South Africa imposes withholding taxes only on royalties or similar payments, proceeds from the disposal of an interest in South African immovable property, and payments to foreign entertainers and sportspersons. It is unlikely that such taxes could be imposed at the level of the unit holder.

However South African tax authorities have introduced withholding taxes in respect of dividends with effect from April 2012 and in respect of interest with effect from January 2013.The withholding tax on dividends or interest could apply in respect of dividends or interest accruing to a unit holder from the PUT or PLS.

5 Treatment of foreign REITs and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Subject to tax on income form a source in South Africa or which is attributable to a South African permanent establishment or immovable property	Subject to tax on income from REIT based on South African tax residence status, subject to certain exceptions.	Subject to tax on income from REIT based on South African tax residence status, subject to certain exceptions.

Foreign REIT

Generally subject to tax on income from a source or deemed source in South Africa if not of a capital nature. Profits of a capital nature subject to tax if attributable to a permanent establishment or immovable property in South Africa

Corporate unit holder

Generally subject to tax on income from a source or deemed source in South Africa if not of a capital nature. Profits of a capital nature subject to tax if attributable to a permanent establishment or immovable property in South Africa.

Individual unit holder

Generally subject to tax on income from a source or deemed source in South Africa if not of a capital nature. Profits of a capital nature subject to tax if attributable to a permanent establishment or immovable property in South Africa. ■

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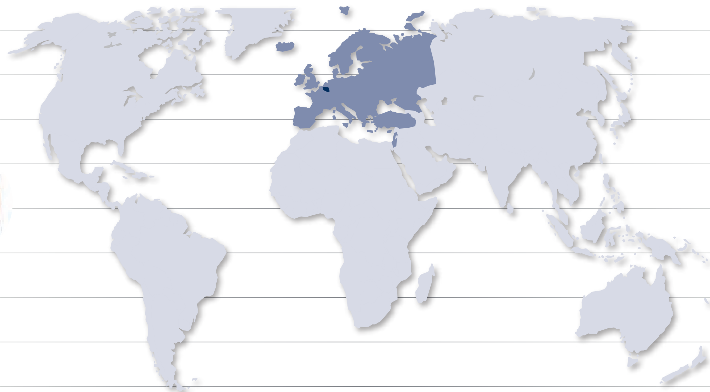

Global REIT Survey 2011

September

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- Requirements
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- Tax treatment at the shareholder's level
- Tax treatment of foreign REIT and its domestic shareholder

EPRA REPORTING

European Public Real Estate Association

Caveat: All information in this paper is based on our research as at June 2011. No reliance should be placed on nor should decisions be taken on the basis of the contents of this brochure. Any party or individual involved in the preparation of this brochure shall bear no responsibility for the consequences of any action taken on the basis of information contained herein, including errors and omissions. Throughout this survey, all REIT data provided in the "Sector summary (end of July 2011)" have been kindly provided by Macquarie Global Property Securities Analytics.

For any questions or feedback related to this survey, please contact:

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1 General introduction

	Enacted year	Citation	REIT type
SICAFI	1995	- Royal Decree of December 7, 2010. - Law of July 20, 2004. - Other tax laws.	Corporate type.

The Belgian equivalent to the REIT regime is known as the SICAFI/Vastgoedbevak *(société d'investissement en immobilier à capital fixe / vastgoedbeleggingsvennootschap met vast kapitaal) regime*, and forms part of the Belgian legal system. The SICAFI was enacted in 1995 based on the Act of December 04, 1990, which was partially abrogated and replaced by the Law of July 20, 2004 on certain forms of management of collective investment undertakings, the Royal Decree of April 10, 1995 and the Royal Decree of June 21, 2006. The law of June 16, 2006, which implemented the Prospectus Directive, modified the prospectus requirements of the Law of July 20, 2004. The Royal Decree of December 7, 2010 abolished and replaced the Royal Decree of April 10, 1995 and the Royal Decree of June 21, 2006. The SICAFI is also subject to specific tax rules.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector -Performance- 12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Belgium	14	12,1	5,5	1,0%

Top five REITs

Company Name	Mkt Cap Mon end (€m)	1 Yr Return	Yield	Sector type
Cofinimmo	1.473	5,87	6,74	Healthcare, Leisure, Office, Others
Befimmo SCA Sicafi	1.022	7,78	6,75	Office
Warehouses De Pauw SCA	501	19,71	7,74	Commercial, Industrial, Office, Parking
Wereldhave Belgium NV	350	15,64	5,96	Office,Retail
Aedifica	296	7,81	3,89	Hotel, Others, Residential, Retirement Housing

2 Requirements

2.1 Formalities / procedure

Key requirements
- Licence from the Financial Service and Markets Authority (“FSMA”). - SICAFI List.

Firstly, the SICAFI must obtain a license as a collective investment undertaking from the FSMA. Then it can be registered on the list of Belgian recognised investment institutions (“SICAFI List”). The FSMA must approve or verify the following:

- the articles of association and the fact whether the company has been constituted for an indefinite term;
- if it has an appropriate administrative, accounting, financial and technical organisation which ensures an independent management;
- that its directors and/ the persons in charge of daily management, have

the appropriate professional reliability and experience to ensure an independent management;

- that at least two persons in the board of directors supervise the daily management;
- that a minimum investment budget has been determined for a period of three years as of the registration on the SICAFI List;
- that it has called upon one or more independent real estate experts which are responsible for the valuation of the invested real estate. Such experts have to be chosen from a list annexed to the application and may not have direct links to the promotion of the SICAFI;
- that the expert has the required professional reliability and experience, including the organisation;
  - that it complies with the rules on risk diversification;
  - that an entity in charge of the financial services is appointed;
  - that the identity of its so-called "promoter" is known and the confirmation of its obligations;
  - that it engages to comply with the listing requirements .

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
- Belgian public limited liability company. - Belgian limited partnership with shares.	EUR 1.25 million

Legal form

A SICAFI must be either a public limited liability company *(société anonyme, SA / naamloze vennootschap, NV)* or a Belgian limited partnership with shares *(société en commandite par actions, SCA / commanditaire vennootschap op aandelen, Comm VA)*. The statutory seat and general management of the SICAFI must be located in Belgium.

A foreign entity cannot qualify as a Belgian SICAFI. A foreign entity has to comply with approximately the same rules as a Belgian SICAFI as it cannot enjoy the European passporting regime. These foreign entities must therefore register with the FSMA and comply with the aforementioned regulations.

Minimum share capital

The required minimum share capital amounts to EUR 1.25 million. In principle, each shareholder has an equal right to participate in the profits of the SICAFI. However, different categories of shares may be issued if allowed by the articles of association.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
No requirements.	Yes

Shareholder requirements

There are no specific shareholder conditions to fulfil in order to achieve SICAFI eligibility.

Listing requirements

All shares of a Belgian SICAFI must be listed on a stock exchange, with a minimum of 30% free float. Listing can only occur after a registration on the SICAFI List and after publication of a prospectus. There are specific prospectus requirements for SICAFIs in Belgium. Foreign entities are subject to largely the same rules as Belgian SICAFIs and cannot enjoy the European passporting regime. Such entities may maintain their home stock exchange listing next to their Belgian listing.

2.4 Asset level / activity test

Restrictions on activities / investments
- The principal activity must be passive investments in real estate and property rental. - A maximum of 20% of the total assets can be invested in one real estate project (ensemble immobilier / vastgoedgeheel) ("risk diversification"). - Developments are allowed, but cannot be sold within five years of completion. - The SICAFI is allowed to hold shares in subsidiaries investing in real estate, including institutional SICAFIs. - As an exception, the SICAFI is allowed to invest in transferable securities. - The SICAFI may hold hedging instruments (covering its financial risk), but excluding speculative transactions

The SICAFI may only invest in 'immovable property'. This includes the following:

- real estate and rights in rem on real estate;
- shares with voting rights in real estate companies controlled either exclusively of jointly;
- option rights on real estate;
- shares in public SICAFIs and in institutional SICAFIs controlled either exclusively or jointly;
  - the units of a foreign collective investment undertaking investing in real estate and registered on the Belgian FSMA list of foreign collective investment undertakings;
  - the units of a collective investment undertaking investing in real estate, established in the EEA and subject to an equivalent control;
- real estate certificates;
- subject to limitations, rights resulting from financial leases and analogous rights of use

The SICAFI is not obliged to invest in Belgian real estate.

The Belgian Royal Decree of December 7, 2010 states that a SICAFI may not invest more than 20% of its total assets into one single real estate project. Under certain specific conditions it is possible to obtain a derogation of this rule from the FSMA.

A SICAFI may develop real estate, provided that the SICAFI maintains the completed developments for at least five years. However, if the development activities are ancillary, the SICAFI may transfer the real estate prior to five years.

As an exception, the SICAFI is allowed to invest in transferable securities to the extent that the articles of association authorise such investments. In such cases, investments in transferable securities must be considered additional or temporary. Belgian law does not provide for any specific minimum or maximum requirements. The FSMA will exercise its discretion when examining the SICAFIs articles of association.

The SICAFI may hold hedging instruments covering its financial risk to the extent that the articles of association authorize such transactions. Speculative transactions are not allowed. The hedging strategy must be disclosed in the SICAFIs financial reports.
The public SICAFI is allowed to hold shares in an institutional SICAFI. The status of institutional SICAFI is not optional. The public SICAFI must choose between having all its subsidiaries subject to this status or none.

2.5 Leverage

Leverage
- Loans limited to 65% of the total assets (under specific conditions loans limited to 33%). - Interest expenses limited to 80% of the total income. - Mortgage (or other collateral) is limited to 50% of the global fair value of the "immovable property" and to 75% of the value of one "immovable property"

Belgian legislation requires that the aggregate loans do not exceed 65% of the total assets of the SICAFI (at the time of entering into the loan). Furthermore, the annual interest costs may not exceed 80% of the total annual operational and financial income. If the SICAFI holds shares in affiliated companies investing in real estate, the leverage restrictions will be applicable on a consolidated basis.

In order to guarantee a pro-active management, the SICAFI must present a financial plan to the FSMA as soon as its consolidated debt-to-asset ratio exceeds 50%.

In case the SICAFI has obtained a derogation to the risk diversification rule, the debt-to-asset ratio may not exceed 33%.

A SICAFI may only vest a mortgage (or other collateral) on real estate in relation to the financing of its "immovable property" activities or of the "immovable property" activities of the group. The total amount covered by a mortgage (or other collateral) may not exceed 50% of the total fair value of the "immovable property" held by the public SICAFI and its subsidiaries. Moreover, it is not allowed to vest a mortgage (or other collateral) on one immovable property may for more than 75% of its value.

2.6 Profit distribution obligations

	Capital gains	Timing
80% of net profit.	Not included in the distribution obligation, if reinvested within a four-year time period.	Annually.

Operative income

Subject to the provisions of the Belgian Company code on capital protection, Belgian legislation requires the SICAFI to distribute on an annual basis the positive difference between (i) 80% of its net operational result and (ii) the net decrease of its indebtedness.. No distribution is allowed if the (statutory or consolidated) indebtedness ratio exceeds 65% or will exceed this limit as a result of the distribution The rules of profit distribution apply to the SICAFI, regardless whether it is a domestic entity or not.

If the subsidiary of a SICAFI also qualifies as a SICAFI itself, the subsidiary is in principle subject to the same profit distribution obligations. Under certain specific circumstances deviating rules apply with regard to the profit distribution by the institutional SICAFI.

The SICAFI may decide to distribute its profit by way of an optional dividend. The articles of association of the SICAFI must contain certain provisions in this regard.

Capital gains

Capital gains are not included in the distribution obligation, provided the capital gains are reinvested within four years.

2.7 Sanctions

Penalties / loss of status rules
Various penalties (not necessarily resulting in the loss of SICAFI status).

If the FSMA concludes that the SICAFI does not observe the laws, regulations and/or its articles of association, this does not necessarily lead to a loss of SICAFI status. Instead, the FSMA may, for example, make the necessary recommendations to the SICAFI to remedy to the situation. Or, the FSMA might impose temporary sanctions (for example, a public notice). The FSMA could also ask the market authorities to suspend the listing of the shares of the transgressing SICAFI. The ultimate penalty would be to omit the SICAFI from the SICAFI List. The SICAFI would then lose its status and would become a regular real estate company. The official loss of status would start as of the date of notification. Additionally, if there is an intentional infringement to certain laws and regulations, a prison sentence and/or a fine could be imposed on the directors of the SICAFI, as well as on the "promoter" of the SICAFI.

2.8 Institutional SICAFI

An institutional SICAFI is a SICAFI controlled either exclusively or jointly by a Belgian public SICAFI. The other shareholder(s) needs to be either (an) institutional or (a) professional investor(s).

The institutional SICAFI is also subject to the supervision of the FSMA.

In principle, the institutional SICAFI is subject to the same regulatory regime as the public SICAFI. However, given the fact that the shares of an institutional SICAFI are held by institutional or professional investors, the regulations with regard to an institutional SICAFI are less stringent.

3 Tax treatment at the level of the SICAFI

Unless indicated otherwise, the tax treatment applies to a public SICAFI as well as to an institutional SICAFI.

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
The eligible rental income is excluded from the taxable basis.	Tax-exempt.	N/A

Current income

Theoretically, the SICAFI is subject to the Belgian corporate income tax at the rate of 33.99%. However, the taxable basis is reduced (i.e. *de facto* zero taxable basis). A SICAFI is taxed on an accrual basis only on the sum of the non arm's length benefits received and the expenses and charges due that are not deductible as expenses (other than reductions in value and capital losses on shares). The taxable basis does thus not include rental income or other types of business income.

Due to the fact that SICAFI enjoys its own favorable tax regime which allows for a very low tax basis, it is not entitled to other benefits. For example, it is not able to apply reduced tax rates. The SICAFI is also not allowed to take advantage of the Belgian participation exemption nor the Belgian notional interest deduction regimes. Additionally, Belgian law explicitly excludes a SICAFI from the foreign tax credit on foreign source income.

Capital gains

Capital gains are not taxable, provided they are received at arm's length terms.

Withholding tax

In principle, non-Belgian source dividends and Belgian and non-Belgian source interest distributed to a SICAFI are exempt from Belgian withholding tax. Belgian source interest distributed to an institutional SICAFI is subject to Belgian withholding tax. Any withholding taxes levied should be creditable and refundable.

Due to the fact that the SICAFI (public and institutional) is subject to corporate income taxes, the SICAFI will qualify as a Belgian resident. It will thus qualify for double taxation treaties, which is a major advantage.

Other taxes

The special tax regime of the SICAFI does not affect applicable local income tax.

Furthermore, the SICAFI is also subject to an annual tax of 0.08% on its inventory value at the end of the financial year. The institutional SICAFI is subject to an annual tax of 0.01%.
The SICAFI is subject to Belgian real estate withholding taxes on the Belgian real estate that it owns, possesses, leases, has building rights to or enjoys the use thereof.

Accounting rules

The IFRS rules are applicable to the SICAFI.

3.2 Transition regulations

Conversion into REIT status
- Real estate assets are to be assessed at market value, excluding Registration Duties. - 16.995% tax on capital gains.

All capital gains that occur upon SICAFI recognition or upon reorganisation (for example, in the case of a merger) are taxable at the specific rate of 16.995% (i.e. 16.5% + 3% crisis tax).

3.3 Registration duties

Registration duties
- No capital duty. - Real property transfer tax of 10% or 12.5% (may be reduced to 5% if the SICAFI buys real estate).

No capital duty is due.

Depending on the location of the real estate, SICAFI real estate sales are subject to the 10% or 12.5% real estate transfer tax. The purchase of Belgian real estate by a SICAFI may be subject to a reduced 5% real estate transfer tax (instead of the usual 10% or 12.5%). If the purchase or sale is subject to VAT, then no real estate transfer tax is levied.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Dividends and capital gains are fully taxable, but if dividend participation regime applies, dividends are 95% tax free and capital gains are fully tax-exempt.	- Withholding tax on dividends is final levy. - In principle, capital gains are tax-exempt.	- In principle, 15% withholding tax. - Special rules for SICAFI investing in Belgian real estate for private accommodation. - Participation privilege for domestic corporate shareholders.

Corporate shareholder

Dividends received and capital gains realised are fully taxable (33.99%). However, if the Belgian dividend participation exemption regime applies, dividends benefit from a 95% tax deduction while capital gains are fully tax-exempt.

Under the Belgian corporate income tax law, the following requirements must be met in order to qualify for the participation exemption on dividends:
- the domestic corporate shareholder's participation must be comprised of only fixed financial assets (non-portfolio);
- the domestic corporate shareholder must have held the legal property for an uninterrupted period of at least 12 months, or commit to holding the property for the full 12-months period;
- the subject-to-tax requirement.

The only requirement that must be met in order to qualify for the participation exemption on capital gains, is the subject-to-tax requirement.

The SICAFI qualifies as an investment company which, although in principle is subject to a tax regime that meets the standards set out in the country where it is resident for tax purposes, benefits from a tax regime that deviates from the normal one applicable there. Therefore, the SICAFI does not actually fulfil the subject-to-tax requirement as mentioned above. However, if according to the SICAFI's articles of association, (i) at least 90% of the income received must be distributed each year (after the appropriate deductions of the remunerations, commissions and costs have been made) and (ii) if and to the extent that this income stems from either dividends received and/or capital gains realised on shares which are eligible for the subject-to-tax requirement, the SICAFI would still be deemed to fulfil the subject-to-tax requirement.

A return of capital is not taxable if it occurs on the basis of a regular decision in accordance with the Belgian Company Code or a similar non-Belgian company law.

Individual shareholder

The 15% dividend withholding tax (if any) is the final levy. The withholding tax cannot be credited.

Capital gains realised on SICAFI shares are not taxable, unless the Belgian tax authorities are able to demonstrate that the capital gain was not realised within the scope of normal management of private assets or that the capital gain was speculative.

According to the Belgian CIT law, a return of capital is not taxable. This only applies if the capital decrease is performed on the basis of a regular decisions and behaviour in accordance with the Belgian Company Code or a similar non-Belgian company law. Nevertheless, a return of capital upon liquidation or redemption of the SICAFI's shares would be taxable if upon the public offering of the shares in Belgium, the SICAFI guarantees a certain repayment or rate of return for a period of eight years or less to its investors. In that case, the return is deemed to constitute an interest subject to a 15% (withholding) tax.

Withholding tax

In principle, 15% withholding tax is due on dividends distributed by a public SICAFI and 25% withholding tax is due on dividends distributed by an institutional SICAFI.

Dividends distributed by the SICAFI to its shareholders are exempt from withholding taxes if the SICAFI invests more than 60% of its assets in real estate used as private accommodation. In order to qualify for the exemption, the real estate must be located in Belgium and used as private accommodation.

If the conditions of the European Parent-Subsidiary Directive are met (e.g. a minimum participation of 10%), no withholding tax will be due on dividend distributions to a corporate domestic shareholder.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Capital gains tax- exempt in Belgium.	Capital gains tax-exempt in Belgium.	- In principle, 15% withholding tax. - Special rules for SICAFI investing in Belgian real estate for private accommodation. - Parent-Subsidiary Directive applicable. - Tax treaty relief may be available.

Corporate shareholder

Capital gains and a return of capital are, in principle, not taxable in Belgium.

Individual shareholders

Capital gains and a return of capital are, in principle, not taxable in Belgium.

Withholding tax

In principle, 15% withholding tax is due on dividends distributed by a public SICAFI and 25% withholding tax is due on dividends distributed by an institutional SICAFI.

Dividends distributed by the SICAFI to its shareholders are exempt from withholding taxes if the SICAFI invests more than 60% of its assets in real estate used as private accommodation. In order to qualify for the exemption, the real estate must be located in Belgium and used as private accommodation.

If the conditions of the European Parent-Subsidiary Directive are met (e.g. a minimum participation of 10%), no withholding tax will be due on dividend distributions to a corporate foreign shareholder. This is the case provided that the corporate foreign shareholder is a resident of another EU-Member State. As of January 01, 2007, the Belgian domestic withholding tax exemption is extended to dividends distributed to companies resident in countries with which Belgium concluded a Tax Treaty.

A non-resident shareholder may be entitled to a withholding tax reduction under the Double Taxation Treaty between Belgium and his/her country of residence. Dividends to a foreign tax exempt entity that does not carry on a business enterprise are also exempt.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
No specific tax privilege.	No specific tax privilege.	No specific tax privilege.

Foreign REIT

A foreign REIT is not eligible for the REIT regime and is therefore subject to the ordinary Belgian non-resident income tax. The net income of the foreign REIT will be taxable at a rate of 33.99%.

Corporate shareholder

The tax treatment of a domestic corporate shareholder of a foreign fund depends on the specific characteristics of the fund.

If the foreign fund has no legal personality, then the corporate investor is deemed to have invested in real estate himself/herself. On the basis of the applicable tax treaty, the non-Belgian real estate income would most likely be taxed in the country where the real estate is located (thus tax-exempt in Belgium). Likewise, capital gains realised on the participation in a foreign fund without legal personality, would be considered capital gains on real estate. On the basis of the applicable tax treaty, the capital gain realised on non-Belgian real estate would most likely be taxed in the country where the real estate is located and therefore tax-exempt in Belgium.

Concerning a foreign fund with legal personality, the corporate investor will not be deemed to have invested in real estate but in the fund itself. The same rules apply for the dividends received and the capital gains realised on the shares in a Belgian SICAFI. The foreign withholding tax levied on dividends received from a non-Belgian real estate fund is a tax deductible item.

Individual shareholder

The tax treatment of a domestic individual shareholder of a foreign fund depends on the specific characteristics of this fund.

If it concerns a foreign fund without legal personality, the individual investor will be deemed to have invested in real estate himself. The same rules apply to corporate investors.

Concerning a foreign fund with legal personality, the individual investor will not be deemed to have invested in real estate but in the fund itself. The income received from the fund will be taxed according to the rules of dividend taxation. Consequently, the dividends would be taxable at a rate of 25% to 15% plus communal surcharges. The foreign withholding tax levied on the dividend income would be deductible from the Belgian taxable basis. Capital gains realised on foreign real estate fund shares are treated in the same way as capital gains realised on SICAFI shares. ■

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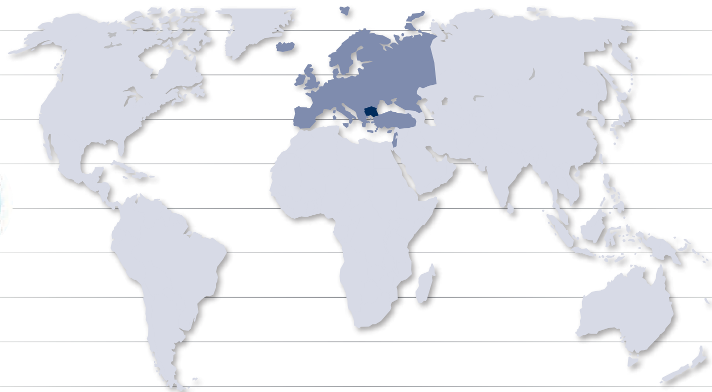
Global REIT Survey 2011

September

Europe

Bulgaria

(SPIC)



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EPRA REPORTING
European Public Real Estate Association

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1 General introduction

	Enacted year	Citation	REIT type
SPIC	2004	Special Purpose Investment Companies Act (SPICA)	Corporate type

The SPIC regime was introduced with the Special Investment Purpose Companies Act (SPIC), which came into force on January 01, 2004.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Bulgaria	19	8,1	0,2	0,0%

Top five REITs (as of July 2011)

Company Name	Total Assets (€m)	Specialization
Advance Terrafund	65	Agricultural, Land
Elana Agricultural Land Opportunity	22	Agricultural
Bulgarian Real Estate Fund Inc	20	Agricultural, Hotel, Land, Others, Retail
Sopharma Properties REIT	17	Healthcare, Industrial, Office, Residential, Retail
Agro Finance	17	Agricultural

2 Requirements

2.1 Formalities / procedure

Key requirements
- Licence from the Financial Supervision Commission. - Listing on Bulgarian Stock Exchange authorization. - Depository bank mandatory.

In order to qualify as a SPIC, a company is required to obtain a licence from the Bulgarian Financial Supervision Commission (FSC). A SPIC shall be established at a constituent meeting at which its shares are subscribed. The founders may not number more than 50. Within seven days after the SPIC is registered in the Commercial Register, the FSC shall be notified. The SPIC shall file with the FSC an application for licence within six months as from its registration with the Commercial Register.

In addition, upon the incorporation of a SPIC, the constituent meeting is obliged to pass a resolution for initial capital increase up to at least 130% of the initial share capital. This first capital increase can be performed only on the basis of a prospectus authorised by the FSC. Once the formal authorisation (licence) is granted, the SPIC may effectively increase its capital. This increase is to be performed through the issuance of rights entitling their holders to take part in the subscription of shares from the capital increase. Said rights must be listed on a regulated market (the Bulgarian Stock Exchange).

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Joint stock company	BGN 500,000 (EUR 255,646)

Legal form

A SPIC can only be established and operate as a public joint stock company (AD). The company name of the special purpose investment company needs to include the denomination 'joint stock special purpose investment company' or the abbreviation 'JSSPIC'.

The registered seat and address of management of a SPIC must be located in Bulgaria. The same requirement applies to its service companies, which are required for certain SPIC activities.

Minimum share capital

The minimum share capital requirement for a SPIC (at the time of incorporation) is BGN 500,000 (EUR 255,646). The share capital must be fully paid in as of the date of applying for registration in the Commercial Register. No contributions in kind are permitted. The SPIC can issue only book-entry (dematerialised) shares.

The increase of registered capital via an IPO should amount to not less than 30% of the initially registered capital.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
- At least 30% of the capital shall be owned by an institutional investor. - No more than 50 founders.	Yes

Shareholder requirements

Upon the incorporation of a SPIC, at least 30% of the capital shall be subscribed by an institutional investor. An 'institutional investor' is not legally defined by the SPIC. However, according to FSC guidelines, an institutional investor is described as a bank, insurance company, licensed pension fund or other financial institution, which are subject to the supervision of the FSC. Foreign legal entities may also act as institutional investors if approved by the FSC. An institutional investor may also have a licence granted by the FSC. As an alternative to FSC supervision, banks are subject to special legal acts. It is not allowed for more than 50 persons or entities to be founders of a SPIC. It has not yet clearly been stated whether a SPIC may be owned by just one shareholder.

Listing requirements

Within six months after its registration in the Commercial Register, the SPIC must apply for the approval of its prospectus for IPO by the FSC. The prospectus is submitted to the FSC as a part of the documents accompanying the application for issuance of a licence for carrying on activities as a SPIC.

There is no clear rule regarding which stock exchange the SPIC must be listed on. However, based on the analysis of the current regulations, it seems that the SPIC can only be listed the on the Bulgarian Stock Exchange. Before it may do so, the SPIC's IPO prospectus must be approved by the FSC (which only approves IPO prospectuses of the Bulgarian Stock Exchange). However, as of January 01, 2007, the Bulgarian legislation has introduced new amendments related to public offering of securities. These amendments also make reference to the regulated security markets of other EU member states. Therefore, according to the relevant amendments, it is expected that SPICs may be listed on other EU stock markets as well.

2.4 Asset levels / activity tests

Restrictions on activities / investments
- No more than 10% of the SPIC's assets may be invested in mortgage bonds. - No more than 10% of the SPIC's assets may be invested in service companies. - No investments allowed in real estate subject to legal dispute. - Real estate investments must be located in Bulgaria.

The business activity of a SPIC investing in real estate is limited to:

- purchasing real estate (which must be located in Bulgaria) and limited property rights to real estate, carrying out real-estate construction and improvements (for property management, renting, leasing, sales), and

- raising funds by issuing securities. The IPO is mandatory for SPICs. However, additional financing is not prohibited. Therefore, the SPIC may engage in equity and debt financing.

SPICs can invest up to 10% of their assets in mortgage bonds. SPICs are entitled to invest up to 10% of their assets in service companies. No other investments in shares are allowed.

A SPIC may not directly perform the maintenance services of the acquired real estate. The SPIC must delegate these services to one or more service companies. These companies can engage in the following activities: servicing and maintaining acquired real estate, constructing and improving real estate, servicing the receivables, keeping and safeguarding the accounting records and other reporting correspondence, and many other necessary activities.

2.5 Leverage

Leverage
Short-term loans cannot exceed 20% of income generating asset.

The only introduced debt financing limitation concerns loans granted for settlement of interest due by the SPIC. In that case, the company may only borrow (from a bank) an amount not greater than 20% of its balance sheet asset value and for a period not exceeding one year.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of the net income of the year.	Included in net income.	Distribution until the end of the following financial year required.

Operative income

The SPIC is obliged to distribute at least 90% of the profit as dividends. It must do so within 12 months following the financial year in which the profit was incurred.

Capital gains

Special rules determining the formation of the profit of a SPIC are set out under the SPICA, and the capital gains/losses are explicitly provided as such items.

2.7 Sanctions

Penalties / loss of status rules
Monetary penalties and a possible loss of SPIC status.

The Finance Supervision Commission will cancel the SPIC's licence if:
- the SPIC does not begin activities within 12 months after receiving the licence;
- the SPIC has provided wrongful information (based on which the licence was granted);
- the SPIC does no longer meet the conditions under which the licence has been granted;
- the SPIC systematically breaches SPIC statutory rules.

Furthermore, SPICs are not allowed to change their legal form. Doing so would result in a loss of status.

If the licence is cancelled by the Financial Supervision Commission, the company will be treated as an ordinary company for tax purposes.

SPICs which breach the profit distribution obligation may be penalised between BGN 5,000 (EUR 2,500) and BGN 10,000 (EUR 5,113).

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Tax-exempt.	Tax-exempt.	N/A

Current income
The income of a SPIC is not subject to corporate taxation. In this respect the SPIC is not entitled to a tax credit for foreign income tax paid.

Capital gains
Capital gains realised by a SPIC are not subject to taxation, since they are included into the financial result of the SPIC, which is exempt from corporate taxation.

Other taxes and fees
Other taxes may be applicable to SPICs such as VAT at a standard rate of 20%, garbage collection fees and annual real estate tax in the range of 0.01%-0.45% (the exact rate is determined by the municipality where the property is located).

Accounting rules
Unless provided by the SPIC regime, the rules provided by the IFRS apply.

3.2 Transition regulations

Conversion into SPIC status
The tax legislation does not envisage any special rules for SPIC.

3.3 Registration duties

Registration duties
- Transfer tax of 0.1% to 3%. - Land Registrar Entrance Fee of 0.1%.

A real estate transfer tax the rate of which varies between 0.1% and 3% (the exact rate applicable in the respective year is approved by the Municipal Council as per the location of the real estate property) and a land registrar entrance fee of 0.1% are levied on the purchase price of the real estate. For tax purposes, the purchase price may not be less than the tax value as defined by the municipal authorities (in compliance with the Local Taxes and Fees Act).

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Dividends are subject to corporate income tax. - Capital gains could be tax exempt.	- 5% withholding tax on distributions is the final levy. - Capital gains could be tax exempt.	To credit withholding tax is not possible.

Corporate shareholder

Dividends
Dividends distributed by a SPIC to domestic corporate shareholders are not subject to withholding tax except for shareholders which are not considered merchants according to the Bulgarian legislation. However, dividends are taxed with corporate income tax at the recipient level under the general tax rules.

Capital gains
Capital gains realised from the sale of SPIC shares could be tax-exempt.

A return of capital distribution
Under the Bulgarian tax legislation, capital decrease is subject to the same tax treatment as dividend distribution.

Individual shareholder
If dividends are distributed to resident physical persons, a 5% domestic final withholding tax is applied. Capital gains realised on the sale of the SPIC shares could be tax-exempt.

Withholding tax
For individual shareholders and corporate shareholders who are not merchants a withholding tax of 5% applies. It is not possible to credit this withholding tax. Dividend distributions to corporate shareholders are exempt from withholding tax.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Dividends are subject to a 5% withholding tax. - Possibility of dividend tax reduction. - dividends distributed to EU/EEA entities are tax exempt. - Capital gains could be tax-exempt.	- Dividends subject to a 5% withholding tax. - Possibility of dividend tax reduction. - Capital gains could be tax-exempt.	- Treaty relief might apply.

Corporate shareholder
A 5% domestic tax rate, or the lower respective DTT withholding tax rate, applies. DTT protection can be obtained following a successful completion of the advance clearance procedure under the Tax and Social Security Procedure Code. This option would only be selected if the DTT would offer a more favorable withholding tax than the domestic tax law. In addition, dividends distributed to EU/EEA entities are exempt from taxation.

Individual shareholder
Dividends paid to foreign individuals face a 5% withholding tax unless a more favourable rate is provided under an applicable DTT, which is again applicable on the same conditions for corporate shareholders. Capital gains could be exempt from taxation, as long as the SPIC shares are listed on the stock exchange.

Withholding tax
A 5% withholding tax will be levied if the recipient is not an EU/EEA entity. Treaty relief may be available.

5 Tax treatment of foreign REIT and its domestic shareholder

Income realised by a foreign REIT from Bulgarian source

Foreign REIT
Local rental income is subject to Bulgarian withholding tax of 10%.

Income realised by Bulgarian residents from a foreign REIT

Corporate shareholder	Individual shareholder
Dividends distributed by EU/EEA corporations are tax exempt.	No tax privileges.

Foreign REIT
The Bulgarian rental income of a foreign REIT is subject to a withholding tax of 10%.

Corporate shareholder
Corporate shareholders are taxed on the income from dividends distributed by a foreign corporation, except for dividends from EU/EEA residents.

Individual shareholder
Individual shareholders are taxed on the income from dividends distributed by a foreign corporation under the general rules and such are subject to 5% one-off tax. ■

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(REIT)

Global REIT Survey 2011

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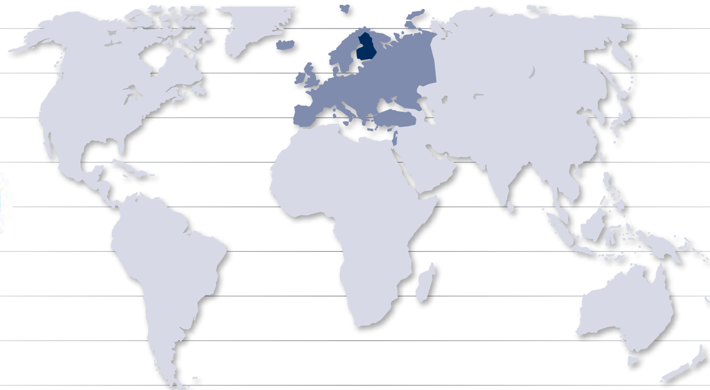

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1 General introduction / history / REIT type

	Enacted year	Citation	REIT type	REIT market
FINNISH REIT	2009	Act on Tax Incentives for certain Limited Companies Carrying on Residential Renting Activities (24.4.2009/299).	Private limited company (closed-ended) Public limited company (closed-ended).	To be established.

The Finnish REIT was introduced with effect from January 01, 2009 by the Finnish Act on Tax Incentives for certain Limited Companies Carrying on Residential Renting Activities (24.4.2009/299). This was however subject to a state aid notification to the Commission. On 12 May, 2010, the Commission announced that REIT is not illegal state aid. However, the Commission considered that a provision allowing REITs to use up to 30% of their annual profits to create tax-exempt re-investment reserves would constitute incompatible aid. Following the Commission's concerns, the Finnish authorities made the commitment not to put in force this provision. Under the REIT regime, a Finnish REIT is fully exempt from paying corporate income tax. However, penalty tax charges may apply on a REIT in certain circumstances.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Application for REIT status must be filed. - Certain conditions for REIT status apply.

An application for REIT status must be filed with the Finnish tax authorities. REIT status must be granted to a Finnish limited liability company under the following conditions:

- the company does not carry on any other activities than renting of property and certain ancillary activities, such as property administration and maintenance and cash management. Property development on own account is permitted;
- at least 80% of the total assets of the company must comprise of shares in mutual real estate companies or residential real property (as defined in the relevant legislation) (measured using financial statements);
- the company does not hold any other assets than property, equipment required by its ancillary activities and liquid funds (as defined in the relevant legislation). The company may not, except for shares in mutual real estate companies, hold any shares in subsidiary companies;
- the company's total liabilities may not exceed 80% of the total assets (measured using (consolidated) financial statements);
- each shareholder must hold less than 10% of the share capital of the company; and
- the Finnish Act on Real Estate Funds (19.12.1997/1173) must apply on the company and hence it must be subject to supervision by the FIN-FSA.

The following additional conditions for REIT status apply as of the beginning of the first tax year as a REIT:

- the company must distribute as dividends at least 90% of its net income for each financial period;
- the company's shares must be listed on a regulated market or must be upon application admitted to trading on a Multi-lateral Trading Facility in the European Economic Area. Upon application to the Finnish tax authorities, this requirement may be dis-applied during the first two tax years as a REIT;
- the company does not distribute profits in any other form than as dividends; and
- the company or its mutual real estate company subsidiaries have not been involved in transactions the purpose of which is deemed to be tax avoidance.

In addition, at least 80% of the net income (excluding capital gains) of the REIT must be derived from the renting of residential property (measured using financial statements). Failure to fulfil this requirement may result in a penalty tax charge on the REIT.

A REIT must file a tax return and a statement on fulfilling the conditions for REIT status with the Finnish tax authorities. The (consolidated) financial statement must be enclosed to the tax return.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
In practise a public limited company (closed ended)	EUR 5 million

Legal form
A Finnish REIT must be a private or public limited company incorporated in Finland. Under the Companies Act 21.7.2006/624, only a public limited company may be listed on a regulated market.

A Finnish REIT may own shares in so-called mutual real estate companies resident in Finland or, in principle, outside Finland. In general terms, a mutual real estate company is a company the shares of which entitle the shareholder to use (or rent to third parties) the premises owned by the mutual real estate company. A REIT may not hold shares in any other subsidiary companies except for shares in mutual real estate companies.

Minimum share capital
Under the Finnish Act on Real Estate Funds (19.12.1997/1173), a Real Estate Fund must have a minimum share capital of EUR 5 million.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
A shareholder should not own 10% or more of the share capital.	Yes Requirement to be listed on a regulated market or admitted upon application to trading on a Multi-lateral Trading Facility in the European Economic Area.

Shareholder requirements
No shareholder should hold 10% or more of the share capital, otherwise a penalty tax charge will arise in relation to the dividend paid to such shareholder.

Listing requirements
Under the Finnish Act on Real Estate Funds (19.12.1997/1173), a Real Estate Fund must apply for listing on a regulated market within one year of commencement of its activities, unless the FIN-FSA grants an exemption from this requirement.

Under the Finnish Act on Tax Incentives for certain Limited Companies Carrying on Residential Renting Activities (24.4.2009/299), a REIT's shares must be listed on a regulated market or admitted upon application to trading on a Multi-lateral Trading Facility in the European Economic Area. Upon application to the Finnish tax authorities, this requirement may be dis-applied during the first two tax years as a REIT.

2.4 Activity/asset level restrictions

Restrictions on activities / investments
- No other activities than renting of property and certain ancillary activities, such as property administration and maintenance and cash management are allowed. Development on own account is permitted. - At least 80% of the net income must be derived from the renting of residential property (measured using financial statements). - At least 80% of the assets must consist of shares in mutual real estate companies or residential real property (measured using financial statements). - May invest outside Finland.

A REIT may not carry on any other any other activities than renting of property and certain ancillary activities, such as property administration and maintenance and cash management. Development by the REIT for its own account is permitted.

Disposals of property are permitted, but may result in a penalty tax charge unless the following requirements are met:
- the REIT disposes of less than 10% of its properties during a tax year (measured using balance sheet values);
- shares in mutual real estate companies have been held for five years, and at least ten years have elapsed from the initial use of the buildings owned by a mutual real estate company;
- more than five years have elapsed from a comprehensive modernisation fulfilling certain criteria (as defined in legislation).

The financial restrictions are:
- at least 80% of the net income must be derived from the renting of residential property; and
- at least 80% of the total assets must consist of shares in mutual real estate companies or residential real property (as defined in legislation).

2.5 Leverage

Leverage
- Total liabilities may not exceed 80% of the of the total assets (measured using financial statements).

The REITS total liabilities may not exceed 80% of the total assets under (consolidated) financial statements.

2.6 Profit distribution obligations

Profits	Capital gains	Timing
90% of the net income must be distributed.	Realised capital gains are included in the distribution obligation.	Not defined.

Dividends
A REIT must distribute as dividends at least 90% of its net income for each financial period.

Capital gains
Gains arising from the disposals of property fall under the distribution obligation.

2.7 Sanctions

Penalties / loss of status rules
Tax charges not necessarily resulting in the loss of the REIT status.

As a general rule, failure to meet any of the conditions for REIT status could result in the loss of REIT status. However, the failure to meet the requirement on 80% of the net income being derived from renting of residential property or the requirement concerning less than 10% ownership by each shareholder will result in a penalty tax charge only.

Where less than 80% of the net income (excluding capital gains) is derived from renting of residential property, a tax charge of 20% will arise on the REIT on the shortfall in the income from renting of residential property.

The REIT will incur a tax charge charge at a rate corresponding to the valid CIT rate (currently 26%) on the amount equivalent to the dividend paid to a shareholder, holding greater than or equal to 10% of shares in the REIT.

A REIT must distribute as dividends at least 90% of its net income for each financial period.

Disposals of property are permitted, but may result in a penalty tax charge unless the following requirements are met:
- the REIT disposes of less than 10% of its properties during a tax year;
- shares in mutual real estate companies have been held for five years, and at least ten years have elapsed from the initial use of the buildings owned by a mutual real estate company;
- more than five years have elapsed from a comprehensive modernisation fulfilling certain criteria (as defined in legislation).

The tax authorities have general powers to make a REIT leave the REIT regime if they consider that the REIT has entered into arrangements with the sole or main purpose of tax avoidance. It is possible to appeal against such action.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
All income of a Finnish REIT is fully exempt from corporate income tax.	Disposals of property are permitted, but may result in penalty tax charges unless certain conditions are met.	Distributions to Finnish resident individuals are subject to tax prepayment withheld at source. Under Finnish domestic law, dividends by a Finnish REIT to a non-resident recipient will be subject to 28% withholding tax at source, subject to applicable tax treaties.

Corporate income tax
A Finnish REIT is fully exempt from paying corporate income tax. However, penalty tax charges may apply on a REIT in certain circumstances.

Capital gains
Disposals of property are permitted, but may result in a penalty tax charge unless the following requirements are met:
- the REIT disposes of less than 10% of its properties during a tax year;
- shares in mutual real estate companies have been held for five years, and at least ten years have elapsed from the initial use of the buildings owned by a mutual real estate company;
- more than five years have elapsed from a comprehensive modernisation fulfilling certain criteria (as defined in legislation).

Withholding tax
Distributions to Finnish resident individuals are subject to tax prepayment withheld at source.

Under domestic law dividends by a REIT to a non-resident recipient will be subject to 28% withholding tax at source, subject to applicable tax treaties.

If an overseas jurisdiction levies a withholding tax on payment to a Finnish REIT, the REIT will not be able to obtain a credit for such tax as the income is exempt in Finland.

Other taxes
Asset transfer tax, property tax and value added tax apply in the same way that they apply for ordinary property companies.

Accounting rules
As a general rule, accounting rules apply in the same way that they apply for ordinary property companies.

3.2 Transition regulations

Conversion into REIT status
Conversion charge of 26% of the unrealised gains on all assets held by property company converting to REIT status.

For Finnish tax purposes, all assets held by a property company converting to REIT status are revalued to market value. A 26% conversion charge is levied on the unrealised gains on all assets held at the day of conversion. The conversion charge can upon application be spread over three years from the year of conversion to REIT status.

3.3 Asset transfer tax

Asset transfer tax
Asset transfer tax of 1.6% (shares) or 4% (real property) (no different within the REIT regime).

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Tax at source
Dividends distributed by a Finnish REIT are fully taxable at 26%.	Dividends distributed by a Finnish REIT are capital income fully taxable at 28%.	The REIT must withhold tax at source on dividends paid to Finnish individuals and pay it forward to the Tax Administration.

Under the Finnish Act on Tax Incentives for certain Limited Companies Carrying on Residential Renting Activities (24.4.2009/299), dividends distributed by a Finnish REIT are defined as fully taxable income for Finnish recipients.

Corporate shareholder
Dividends distributed by a Finnish REIT are fully taxable at 26%.

Capital gains on disposal of shares in REITS are taxable under normal capital gains tax rules.

Individual shareholder
Dividends distributed by a Finnish REIT (a listed company) are capital income fully taxable at 28%.

Capital gains on disposal of shares in REITS are taxable under normal capital gains tax rules.

Taxation at source
The REIT must withhold tax at source on dividends paid to Finnish individuals and pay it forward to the Tax Administration.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- 28% final withholding tax on dividends (subject to tax treaties). - Disposal of shares in a Finnish REIT should typically be outside the scope of Finnish capital gains tax.	- 28% final withholding tax on dividends (subject to tax treaties). - Disposal of shares in a Finnish REIT should typically be outside the scope of Finnish capital gains tax.	- Tax treaty relief may be available. Should be treated as a dividend distribution under most tax treaties. - Parent-Subsidiary Directive not applicable.

Corporate shareholder
Under domestic law dividends by a REIT to a non-resident recipient will be subject to 28% withholding tax at source, subject to the applicable tax treaties.

Gains on disposals of shares in a Finnish REIT could be subject to tax at 26% in case at least 50% of the REIT's assets are directly held property located in Finland (as opposed to shares in mutual real estate companies), subject to the applicable tax treaties. In practice, disposals of shares in a Finnish REIT should typically be outside the scope of Finnish capital gains tax.

Individual shareholders
Under domestic law dividends by a REIT to a non-resident recipient will be subject to 28% withholding tax at source, subject to the applicable tax treaties.

Gains on disposals of shares in a Finnish REIT could be subject to tax at 28% in case at least 50% of the REIT's assets are directly held property located in Finland (as opposed to shares in mutual real estate companies), subject to the applicable tax treaties. In practice, disposals of shares in a Finnish REIT should typically be outside the scope of Finnish capital gains tax.

Withholding tax

A non-resident shareholder suffers the withholding tax of 28% no matter if corporate or individual, subject to applicable tax treaty provisions. Treaty relief can be claimed ex ante or retrospectively. The dividend should be treated as a dividend distribution under most treaties. EU Parent-Subsidiary Directive not applicable.

5 Tax treatment of foreign REITs and its domestic shareholders

Foreign REIT	Corporate shareholder	Individual shareholder
Taxed under normal Finnish tax rules.	A foreign REIT distribution to a Finnish shareholder is likely to be treated as a normal dividend from the non-resident company (will depend on structure of foreign REIT)	A foreign REIT distribution to a Finnish shareholder is likely to be treated as a normal dividend from the non-resident company (will depend on structure of foreign REIT)

Foreign REIT

A foreign REIT will be taxable under normal Finnish rules.

Corporate shareholder

A foreign REIT distribution to a Finnish corporate shareholder is likely to be treated as a normal dividend (which may be fully or partially tax-exempt under certain conditions) from the non-resident company (will depend on structure of foreign REIT).

Individual shareholder

A foreign REIT distribution to a Finnish individual shareholder is likely to be treated as a normal dividend from the non-resident company (will depend on structure of foreign REIT). As general rule, 70% of a dividend from a listed company is taxed at 28%, whereas a dividend from a non-listed company is divided into capital income (taxed at 28%), earned income (taxed at progressive rates) and tax exempt income under a certain formula. ■

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Europe

France

(SIIC)

Global REIT Survey 2011

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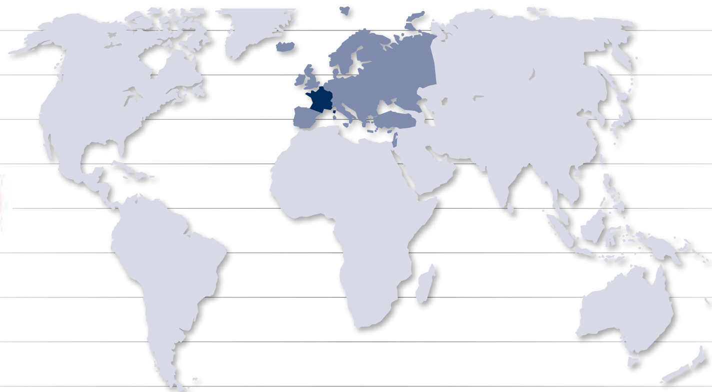

Content

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- Requirements
- Tax treatment at the level of REIT
- Tax treatment at the shareholder's level
- Tax treatment of foreign REITs and its domestic shareholders

For any questions or feedback related to this survey, please contact:

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EPRA | REPORTING

European Public Real Estate Association

1 General introduction

	Enacted year	Citation
SIIC	2003	Article 11 of the Finance Act for 2003. Administrative Guidelines from the French Tax Office.

Article 11 of the Finance Act for 2003 (Law #2002-1575 of December 30, 2002) introduced a pure tax regime applicable to listed real estate asset investment companies (*sociétés d'investissement immobiliers cotées*, SIICs). This regime is governed by articles 208 C, 208 C bis, 208 C ter and 219 IV of the French tax code (FTC). The SIIC regime has been amended by the Amended Finance Act for 2004, the Finance Act for 2005, the Amended Finance Act for 2006, the Amended Finance Act for 2007, the Finance Act for 2008, the Finance Act for 2009 and the Amendatory Finance Act for 2009. In addition, the French tax authorities (FTA) published administrative tax guidelines on September 25, 2003 and on February 01, 2010.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
France	43	18,9	50,3	8,8%

Top five REITs

Company Name	Mkt Cap Mon end (€M)	Sector type
Unibail-Rodamco SE	14.285	Office, Retail
Gecina SA	6.064	Healthcare, Hotel, Logistic, Office, Residential
Klepierre	4.950	Office, Retail
ICADE	4.172	Healthcare, Industrial, Office, Residential, Retail
Fonciere Des Regions	3.736	Healthcare, Hotel, Leisure, Logistic, Office, Others, Parking

The main new legislative change that occurred during 2009/2010 was introduced by the Amendatory Finance Act for 2009 which has modified the conditions for the election for the SIIC regime and facilitated the formation of join ventures between SIIC and SPPICAV (*Société de Placement à Prépondérence Immobilière à Capital Variable*).

Until end of 2009, one of the requirements to qualify as a SIIC was to be listed on the French stock exchange. Foreign EU companies having elected for the SIIC regime therefore had to apply for a secondary listing on the French stock exchange. Since January 01, 2010, the new requirement is that the company be listed on a EU regulated market, which open doors for all EU companies that are listed on the home stock exchange to apply for the SIIC regime without having a secondary listing in France (assuming that they meet all other conditions).

Besides, the success of the OPCI's (unlisted property funds) and especially its SPPICAV form, which benefits from a tax status very similar to the SIIC status (corporation tax exemption subject to distribution obligation) led the industry to suggest legal amendments so as to allow a SIIC and a SPPICAV to form jointly held subsidiaries. Such was the second purpose of the Amendatory Finance Act. A subsidiary that is held for at least 95% by one or several SIIC or one several SIIC and one or several SPPICAV, may elect for the SIIC regime as a qualifying SIIC subsidiary.

The very positive effects of the 210E tax-break, which allowed favorable treatment of capital gains on sales of property by corporates to SIIC purchasers inter alia, which was due to expire at the end of 2008 has been extended until end of 2011. The industry has been able to demonstrate the positive impact of this measure in encouraging the move in ownership of commercial property from the corporate to the public savings' market, and it is still hoped that the measure may be reintroduced in some effective form.

The approval of the first OPCI (unlisted tax flow-through property funds – successors to the earlier inflexible SCPI model) has stimulated an in-depth review of governance requirements in the sector, both within the industry and by the market authorities (AMF). This has particularly focused on relationships with external managers (which is not the standard model in the French SIIC sector), on disclosure of conflicts of interest and transactions with related parties, and on valuation practice. The FSIF has demonstrated its attachment to transparency in this area by in July 2008 publishing, with the approval of the AMF, a voluntary Code for its members based on EPRA best practice (EPRA BPR).

The SIIC regime has attracted a number of foreign companies such as Corio, Rodamco Europe and Wereldhave (Netherlands), Hammerson (UK), Cofinimmo and Warehouse de Paw - (Belgium).

Phare – Unibail-Rodamco (La Defense, Paris) – The Phare project will see a highly sustainable 125,000 sqm office complex in La Défense, Paris. Architect: Thom Mayne

2 Requirements

2.1 Formalities / procedure

Key requirements
- The election letter must be filed with the competent tax office for the parent company with a list of the subsidiaries which also elect. - Subsidiaries' list must be updated once a year.

In France, an eligible real estate investment company (i.e. the parent company) may elect to apply for the SIIC regime within the first four months of the financial year (assuming that the SIIC regime is applying for the first time). An election may also be made by any corporate subsidiary which engages in qualifying activities and is directly or indirectly held by one or several listed parent companies that have themselves elected for the SIIC regime as parent or jointly held by a SIIC parent company (ies) and one or several SPPICAV. In order for such a subsidiary to qualify, the parent company(ies) must have, together, at least a 95% ownership.

The election letter must be filed with the competent tax office for the parent company with a list of the subsidiaries which also elect. The list must be updated every year, together with the company's annual corporation tax return.

A subsidiary that wishes to elect for the SIIC regime must identify the parent company and file the election letter with the competent tax office.

Due to the changes in the company's tax regime, the process of election results in a partial cessation of business. Therefore, the listed parent company and its elected subsidiaries must file a specific cessation tax return.

The election is irrevocable. Once it is made, the eligible companies may not waive it. The election is also considered global because it applies to all the properties and shares in the qualifying partnerships (Article 8 of the FTC).

In the event where income and gains deriving from directly-held properties located abroad would not be exclusively taxable in the foreign jurisdiction where the property is located (under the applicable tax treaty), the SIIC election would apply to such properties. However, these properties, upon specific election, may be definitively excluded from the SIIC regime, either (i) on the date of election for the SIIC regime, or (ii) on the date of their acquisition if later. In this case, the profits deriving from these excluded properties will then be treated as part of the SIIC taxable sector.

In addition, capital gains earned upon the sale and/or the contribution of properties, rights over properties, financial lease agreements, shares in real estate companies, to a SIIC or its qualifying subsidiaries until December 31, 2011 are taxable at a reduced rate of 19% provided that the SIIC or its qualifying subsidiaries keep the sold and/or contributed shares, properties or right over properties for at least five years and retains them within the tax-exempt sector. If the purchaser, or the beneficiary company of the contribution is a qualifying subsidiary that elected for the SIIC regime, the 19% reduced rate is applicable, provided that the qualifying subsidiary remains in the SIIC regime for at least five years as from the sale or contribution.

2.2 Legal form / Minimum share capital

Legal form	Minimum share capital
- Joint stock company - Partnership limited by shares	EUR 15 million

Legal form

The parent company must be a corporation (*Société Anonyme*) or any other company with capital divided into shares that can be listed (e.g. *Société en Commandite par Actions as opposed to Société par Actions Simplifiée*). The SIIC regime does not contain specific conditions that the parent company must be incorporated under French law or that it must be a tax-resident in France.

In order to qualify for the SIIC regime, the subsidiary company must be directly or indirectly held by one or several listed SIIC parent companies or SPPICAV (*Société de Placement à Prépondérence Immobilière à Capital Variable*). The parent companies must have validly elected for the SIIC regime or be a SPPICAV and must own at least 95% of the subsidiary. The subsidiary must also meet the activity requirements. The only other requirement for qualifying subsidiaries is that they must be subject to French corporate income taxes, either due to their legal form or tax election.

Foreign companies which are listed on regulated EU stock exchange and which comply with other SIIC conditions may elect for the SIIC regime as parent, with respect to their French direct or indirect qualifying operations. In order to be eligible for the SIIC regime, the French tax authorities require that the foreign company have a permanent establishment in France and is subject to French corporate income tax. The foreign company's French assets and shares of qualifying French subsidiaries are recorded as assets of the branch for French tax purposes.

Minimum share capital

The share capital of the listed parent company must equal at least EUR 15 million.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
- Investors cannot hold more than 60% of share capital and voting rights. - At the time of election, 15% of the share capital and voting rights must be held by investors, who individually own less than 2%.	Yes

Shareholder requirements

Since January 01, 2007, the SIIC regime has been characterised by these new conditions:

An investor (other than a SIIC parent) or a group of investors acting in concert pursuant to article L. 233-10 of the French Commercial Code (i.e. persons who have entered into an agreement in order to buy or sell voting rights, or to exercise voting rights in order to implement a policy in relation to a company) cannot hold, either directly or indirectly, more than 60% of the share capital and voting rights of the listed parent company. Any SIIC, already in existence on January 01, 2007 benefits from a three-year grace period to allow it to adapt to this new rule. After this period, the rule must be permanently complied with.

At the time of the election, at least 15% of the listed parent company's share capital and voting rights must be held by investors who individually, directly or indirectly, own less than 2%. This test aims to ensure a minimum level of free float before the company can elect for the SIIC regime.

Listing requirements
The parent company must be listed on a EU regulated stock exchange.

2.4 Asset level / activity test

Restrictions on activities / investments
- Principal activity restricted to rent out the property. - No required asset level. - Real estate development may not exceed 20% of the gross book value.

In order to be eligible for the SIIC regime, the principal activity of the company must be restricted to property acquisition and/or construction with the aim to rent out the property as well as direct or indirect portfolio investments in partnerships (*sociétés de personnes*) or other companies liable to corporate income tax. The partnerships and companies in which the SIIC invests, should also have business activities and goals similar to the SIICs.

The listed parent company and its subsidiaries may also engage in activities other than just passive investments. However, these activities must remain ancillary to the principal qualifying activity. Income from these activities would be fully taxable. Qualifying ancillary activities are most notably comprised of the following:

- the financial leasing of properties (*crédit-bail immobilier*) entered into before 2005, provided that the net book value of the outstanding portfolio of the properties does not exceed 50% of the total gross asset value of the company (financial leasing contracts entered into after January 01, 2005 is a qualifying leasing activity eligible to the SIIC regime). This applies to entities that are lessee under a financial lease and grant a sublease to tenants;
- other activities such as real estate development or real estate brokerage, provided that the gross book value of the relevant assets does not exceed 20% of the total gross asset value of the company. For the purpose of this 20% test, the value of properties subject to financial leases is disregarded. If these qualifying ancillary activities are performed through subsidiaries, then only the book value of the participation and current-account receivables would be considered for the purposes of the 20% test.

However if the SIIC parent company or subsidiary entered, after 2005, into a financial lease for a building that is sub-let to tenants, this activity is considered as an eligible activity. On the other hand, a financial lease which was entered into before 2005 does not qualify.

Forum des Halles – Unibail-Rodamco – A 82,000 sqm retail space in Paris, opening H1-2014. Architect: Patrick Berger-Jacques Anziutti Seura/Saguez & Partners

Since January 01, 2007, the regime is also applicable with respect to assets which the listed parent company and elected subsidiaries enjoy a usufruct right to, or which they leased under certain long-term leases (baux emphythéotiques) or building leases (*baux à construction*).

The qualifying activity may be conducted outside of France, either directly or through subsidiaries.

In the event where income and gains deriving from directly-held properties located abroad would not be exclusively taxable in the foreign jurisdiction where the property is located (under the applicable tax treaty), the SIIC corporate income tax exemption would apply to such properties. However, these properties, upon specific election, may be definitively excluded from the SIIC regime, either (i) on the date of election for the SIIC regime, or (ii) on the date of their acquisition if later. In this case, the profits deriving from these excluded properties will then be treated as part of the SIIC taxable sector.

The SIIC regime may also apply to the listed parent company's subsidiaries provided that the subsidiaries are as follows:

- liable to French corporate income tax;
- at least 95% directly or indirectly owned by one or several listed SIIC parent company during the entire fiscal year (in which the SIIC regime was applied for) or together with one or several SPPICAV;
- identical to a SIIC in terms of corporate business purpose (including ancillary activities).

Since January 01, 2007, it has been possible to create joint ventures between two SIIC groups. This is possible due to the fact that a subsidiary may elect for the SIIC regime only if its share capital is held by one or several listed parent companies, which have already elected for the SIIC regime.

The SIIC regime may also apply to the listed parent company's shares in a partnership, if such partnership has a corporate business purpose identical to that of an SIIC. There is no percentage participation requirement with respect to partnerships that engage in qualifying activities.

2.5 Leverage

Leverage
Thin capitalisation rules.

The French SIIC regime does not provide specific leverage restrictions. However, new French thin capitalisation rules apply to corporate taxpayers for taxable years as of January 01, 2007. These new rules also apply to companies that have elected for the SIIC regime. Under certain conditions, the rules limit the deduction of interest on group loans.

The new French thin capitalisation rules only apply to related party loans. A related party is defined as (i) a company that controls (or having a de facto control), directly or indirectly, more than 50% of the capital of the French borrowing company, or (ii) any company that is under the direct or indirect control of a person that also controls, directly or indirectly, more than 50% of the capital of the French borrowing company. Since the Finance bill for 2011, a third party loan may also fall within the scope of the thin capitalization rules if it is secured by a company related to the debtor as above defined (certain exceptions are however available).

The impact of the thin capitalisation rules is to increase the amount of the SIIC's exempt realised income, which is subject to compulsory distribution to shareholders.

2.6 Profit distribution obligations

Operative income	Capital gains	Dividends	Timing
85% of tax-exempt profits.	50% of capital gains.	100% of dividends.	Annually.

Operative income

At least 85% of the tax-exempt profits from qualifying leasing activities (including profits realised by directly owned partnerships or pass-through entities), must be distributed before the end of the tax year following the year in which they are generated.

Capital gains

At least 50% of capital gains resulting from the sale of (i) rights relating to leasing contracts (ii) properties (includes the sale of property by directly held partnerships or pass-through entities) (iii) shares of qualifying partnerships or (iv) shares of corporate subsidiaries that have elected for the SIIC regime (this includes the sale of shares by a directly held partnership or a pass-through entity) must be distributed before the end of the second tax year following the year in which they have been realised.

Dividends

100% of the dividends paid by SIIC's subsidiaries which have elected for the SIIC regime must be distributed before the end of the tax year in which they are declared.

2.7 Sanctions

Penalties / loss of status rules
- Profit and gain exemption is denied for the financial year in which the distribution shortfall appears. - Latent capital gains subject to the exit tax upon election for the SIIC status could be retroactively subject to a corporate income tax rate of 34.43% (including the 16.5% or 19% exit tax deduction) and latent capital gains built during the years of application of the SIIC status could be taxed at a 25% tax rate in case the SIIC leaves the status within ten years as from election.

If a parent company or a qualifying subsidiary that has elected for the SIIC regime does not meet the minimum distribution obligation, the profits and gains exemption is denied for the financial year with respect to which the distribution shortfall appears. If the tax administration were to conduct a tax audit and reassess the exempt profits or gains, the reassessed amount would normally be fully taxable because it would not have been distributed in due time. However, the reassessed amount would not be considered taxable if it is already covered by previous excess distributions of the 85% and 50% requirement based on initially reported profits and gains.

If the listed parent company no longer fulfils the conditions for the SIIC regime, then the rental income and capital gains would become fully taxable from the beginning of the financial year with respect to which the loss of status takes place. For instance, this could occur in the case of de-listing or if the non-qualifying ancillary activities exceed the applicable threshold or if one shareholder – or a group of share holders acting in concert – owns more than 60% of the share capital or voting rights of the SIIC (note that this 60% condition will enter into force as from 2010 only for SIIC already in existence on January 01, 2007). In addition, if the loss of status occurs within ten years after the initial SIIC regime election, then the latent gains would be retroactively subject to a corporate income tax at the standard rate (currently 33.33%, 34.43% with surcharges) after deduction for the 16.5% or 19% exit tax already paid on such latent gains.

Should one of the qualifying subsidiaries that elected for the SIIC regime no longer fulfil the conditions, it would lose the benefit of the leasing profits and gains exemption as of the beginning of the financial year in which loss of status occurs. This could result if, for example, more than 5% of its capital shares are sold to an unrelated entity that is not a SIIC parent.

If a loss of status were to occur (and by contrast to loss of status of the listed SIIC parent), there would be as well a recapture of the latent gains which were recognised upon the initial election and which benefited from the exit tax of 16.5% or 19%.

In the case of a merger or acquisition of one SIIC by another SIIC, the exemption regime remains valid insofar as the distribution conditions are executed by the acquirer. In the case of acquisition, the target SIIC parent, which becomes a subsidiary as a result of that acquisition, must remain subject to SIIC regime (as a subsidiary) for the remainder of the ten-year period from its own election as SIIC parent.

The Finance Act for 2009 has added the following main sanctions in case the SIIC exits the status:

- Undistributed earnings relating to tax-exempt profits are taxed at the standard corporation tax rate on the fiscal year when the quoted company exit the status;

- Latent capital gains built during the years of application of the SIIC status are taxed at 25% (subject to a rebate of 10% per year);
- A specific mechanism applies when a SIIC does not meet the 60% shareholder test for a limited period of time (when that period is exceeded then the SIIC definitively exit the regime).

Pyramidion – Gecina (La Defense, Paris) – At the center of the new La Défense business district, Pyramidion opens to a 6,200 sqm garden and offers its lessees top-of-the-line amenities. Architect: Pei Cobb Freed & Partners.

3 Tax treatment at the level of REIT

3.1 Corporate income tax

Current income	Capital gains	Withholding tax
Eligible income tax-exempt.	Eligible capital gains tax-exempt.	- In principle domestic sourced income not subject to withholding tax. - The taxes withheld on foreign sourced income could be credited if a double tax treaty allows.

Current income

The listed parent company and its qualifying corporate subsidiaries that have elected for the SIIC regime are, in principle, subject to French corporate income tax. However, the following income is fully exempt from corporate income tax, provided that the distribution requirements are met:

- Income realised directly or through qualifying partnerships from qualifying leasing activities. The benefit of the exemption regime has been extended to financial lease contracts entered into after January 01, 2005. Since January 01, 2007, it has also been extended to certain long-term leases (baux emphythéotiques) or building leases (baux à construction).
- Dividends received from qualifying subsidiaries that have elected for the SIIC regime, and paid out of the tax-exempt income of such subsidiary.
- Since January 01, 2007, the listed parent company may acquire shares of another SIIC company and thus benefit from the dividend tax exemption provided by that SIIC. In order to receive this benefit, the parent company must hold at least 5% of the other SIIC's capital shares and voting rights for at least two years, and 100% of the dividends paid must be distributed before the end of the tax year during which they are granted. Since January 01, 2008, the listed parent company may benefit from the dividend exemption in respect of dividends received from (i) a *Société de placement à prépondérence immobilière à capital variable* ('SPPICAV'), or (ii) a foreign REIT provided the parent company holds at least 5% of the distributing entity's capital shares and voting rights for at least two years.

Capital gains

Capital gains arising from the sale or disposal of properties used for qualifying leasing activities, from the disposal of participation in qualifying partnerships or other pass-through entities, or from disposal of the participation in qualifying corporate subsidiaries that have elected for the SIIC regime are fully tax exempt.

Capital gains are only considered tax-exempt if the acquirer is unrelated to the seller. Two entities are considered to be related to each other if one of the two directly or indirectly holds the majority of the capital shares of the other (or has de facto control), or if both of the entities are directly or indirectly under control of the same entity.

Since January 01, 2007, the straight sales of properties among members of the same SIIC group or between members of a SIIC group and a SPPICAV may, however, benefit from an exemption under certain conditions (with a roll-over of the tax basis). In this respect, the tax treatment of the capital gain allocated to buildings will differ from the one allocated to land:

- Non-depreciable assets (e.g. land): for tax purposes, the acquirer takes over seller's basis. Capital gain upon a subsequent sale would therefore, for tax purposes, be computed from this rolled-over tax basis, which will increase the 50% distribution obligation;
- Depreciable assets (e.g. construction): for tax purposes, the acquirer has a stepped-up tax basis. However, the gain recognised in the transaction must be recaptured in the tax-exempt rental income (over 15 years generally, or over the residual useful life if construction represents more than 90% of the value of the depreciable assets). This recapture increases the exempt income and therefore the amount of the compulsory 85% distribution, which in practice offsets the increased depreciation allowances (which themselves reduce the exempt income and the distribution obligation).

Withholding tax

If a French listed company or subsidiary receives foreign source income that is subject to French corporate income tax, the tax withheld could be credited if a double tax treaty allows. There is no actual cash refund for foreign tax withheld. In principle, outbound dividends paid by a SIIC to French tax residents are not subject to a withholding tax.

Accounting rules

The French Comité de la Réglementation Comptable adopted a Resolution on December 12, 2002 (Regulation CRC, December 12, 2002, #2002-10.) which devoted a large section of IFRS relating to depreciation and impairment of assets under French GAAP. French companies are required to prepare financial statements in accordance with these rules as from January 01, 2005. Accordingly, French SIICs will also be subject to the IFRS rules regarding depreciation and property impairment.

3.2 Transition regulations

Conversion into REIT status
- Exit tax payment. - Tax losses carried forward are deductible from exit tax basis. - Remaining losses are cancelled.

As a result of SIIC election, the listed parent company and its electing subsidiaries experience a cessation of activity and a tax regime change. Under ordinary tax rules, this would trigger immediate taxation of deferred profits and latent capital gains. Upon the transition, the following tax rules apply:

- The parent company and the corporate subsidiaries which elect pay a mandatory exit tax (a flat rate which was increased from 16.5% to 19% as from 2009) on latent capital gains on properties and on interest in qualifying real estate partnerships. The exit tax is payable in four instalments (every December 15, for the first four years after election). Conversely, there is no taxation of the latent capital gains on participation held in qualifying corporate subsidiaries. However, there is a roll-over of tax basis on these latent capital gains:
- The latent capital gains on other assets are tax-exempt, but subject to roll-over tax basis;
- The tax losses carried forward are deductible from the exit tax basis and remaining losses are cancelled.

The SIIC regime election does not trigger any taxation at the shareholder level.

3.3 Registration duties

Registration duties
- Notary and land registration fees. - VAT and/or registration duties.

The French tax costs arising from property acquisition are:

- Notary fees equal to 0.825% of the property purchase price. These fees are negotiable only if they exceed EUR 80,000;
- Land registration fees amounting to 0.1% of the purchase price of the property;
- Depending on the nature of the property, either (i) a 19.6% VAT plus a 0.715% reduced registration duty, or (ii) registration duties at the standard 5.09% rate.

Property acquisition is either subject to VAT or registration duties in France:

- Pursuant to article 257-7 of the FTC, the French standard VAT of 19.6% applies to (i) property transfers that have been completed less than five years before the transfer date and that have never been transferred to persons other than estate assets traders before, (ii) property transfers of either land on which a building will be erected by a purchaser within four years from purchase or building that require totally reconstruction by the purchaser;
- The sale is subject to French registration duties at a rate of 5.09% liquidated on a fair market value of the properties if (i) the properties were built more than five years ago, and (ii) there is no intent to fully refurbish or rebuild these properties.

The acquisition of shares or interests in French unlisted subsidiaries or partnerships is subject to registration duties at the rate of 5%. The 5% registration duty does not apply to the transfer of shares from the subsidiary to the parent company since the latter is listed.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Dividends and capital gains are taxed at a standard rate of 34.43%. - Return of capital is normally tax-free.	- Capital gains and 60% of the value of the dividends are subject to French income tax. - The return of capital is normally tax-free.	N/A

Corporate shareholders

The tax treatment of French corporate shareholders receiving dividends from a SIIC differs depending on whether the dividends are paid from taxable or from tax-exempt income and gains.

Dividends paid out of the tax-exempt income and gains are fully subject to French corporate income taxes at the standard rate. They are not eligible for exemption pursuant to the domestic parent subsidiary regime.

Dividends paid out of the taxable portion are also subject to corporate income taxes at the standard rate. However, if the qualifying parent companies hold at least 5% of the shares of the SIIC for at least two years, it could be eligible for the domestic parent-subsidiary 95% dividend exemption.

A return of capital is normally tax-free. Any reduction of share capital or the distribution of share premium will be treated as a tax-free return only to the extent that all reserves or retained earnings have already been distributed. The latter condition does not apply in case of share redemption.

The tax treatment of capital gains arising from the sale of the SIIC shares differs depending on whether the capital gains are earned upon the sale of the listed parent company or upon the sale of its qualifying subsidiaries that have elected the SIIC regime.

Capital gains earned on the sale of the listed parent company shares are subject to corporate income taxes at the standard rate of 33.33% (34.43% including surcharges). The rate could be reduced to 19% (19.627% including surcharges) pursuant to the long-term capital gain tax regime if the shares have been held for at least two years and can be considered qualified participation (e.g. treated as participating shares for accounting purposes, which generally requires shareholding of 5% at least).

Capital gains arising from the sale of qualifying subsidiaries shares are subject to corporate income tax at the standard rate of 33.33% (34.43% including surcharges).

Individual shareholder

Dividends paid out of tax-exempt income and gains are subject to French income tax at a progressive rate and also to the 12.3% additional social contribution tax. However, SIIC shares may be held within the framework of a favorable tax stock investment scheme (plan d'épargne en actions: PEA). If so, the dividends from these shares would be income tax-exempt. However, social contribution tax of 12.3% would still be applicable. The tax exemption would only apply if all PEA income and gains from share disposal would be reinvested into the PEA for a minimum of five years.

Dividends paid out of taxable income and gains are also subject to French income taxes at a progressive tax rate as well as to the 12.3% additional social contribution tax.

As of January 01, 2006, dividends (paid out of either taxable or tax-exempt income/gains) received from a SIIC are subject to income tax on 60% only of their amount. Such dividends benefit also from a yearly allowance of EUR 1,525 for taxpayers filing separately or EUR 3,050 for couples filing jointly.. The 12.3% social contribution tax still applies to the full amount received (before the 40% tax allowance).

Alternatively, as of January 01, 2008, dividends may be subject upon election to a withholding tax at a flat rate of 19% (plus 12.3% social contributions). The tax basis is the dividend income received (no tax basis reduction is available). The election is irrevocable, but may apply only to a portion of the dividends received. However, the taxpayer, who elects for the 18% withholding tax for a portion of the dividends, loses the benefit of the 40% allowance for all the dividends received in the same calendar year.

French individuals deriving capital gains from the sale of SIIC shares are subject to an income tax at a flat rate of 19%. In addition, the capital gains are subject to the 12.3% social contribution tax.

A return of capital distribution is normally tax-free. However, any reduction of capital shares or share premium distributions will be treated as a tax-free return of capital only to the extent that all reserves or profits have already been distributed. The latter condition is not applicable to share redemption.

Withholding tax

In principle, dividends paid to French tax residents are not subject to a withholding tax.

4.2 Foreign shareholders

Corporate shareholder	Individual shareholder	Withholding tax
- Final withholding tax for dividends. - 15% in the case of substantial participation.	- Final withholding tax for dividends - 15% in the case of substantial participation.	- Generally 25% withholding tax (or a reduced treaty tax rate). - EU Parent-Subsidiary Directive not applicable.

Corporate and individual shareholders

Subject to applicable double tax treaty, dividends distributed by a French parent company or a qualifying subsidiary having elected for the SIIC regime are subject to a withholding tax at the rate of 25% when paid to non-resident shareholders. If the shareholders are resident of a treaty country, they may benefit from an exemption or a reduced withholding tax rate which is generally equal to 15% and such withholding tax is often creditable against the income tax liability in their home jurisdiction.

EU corporate shareholders owning more than 15% of SIIC shares are not eligible for the withholding tax exemption pursuant to the EU Parent-Subsidiary Directive to the extent that the received dividends are paid out of the tax-exempt SIIC income.

A return of capital is normally tax-free. However, any capital share reduction or share premium distribution be treated as a tax-free return of capital only if all reserves or profits have already been distributed. This latter condition does not apply in case of share redemption.

Capital gains realised on the sale of the listed parent company shares are taxable in France at a flat rate of 19% rate only in case of substantial participation (more than 10%) and subject to double tax treaty.

Capital gains realised on the sale of qualifying subsidiaries' share that have elected for the SIIC regime are taxable in France at a flat rate of 33.33% and subject to double tax treaty.

4.3 Anti-abuse Measures

Specific levy of 20%
Applicable to the dividends paid by the parent company to domestic or foreign shareholders under certain circumstances.

Since January 01, 2007, there is a specific levy regime applicable to the dividends paid by the parent company to domestic or foreign shareholders under certain circumstances.

The parent company must assess and pay a levy of 20% in respect of the dividends distributed if the beneficiary of the dividends (i) is a French or foreign taxpayer other than a natural person (ii) which holds, directly or indirectly, at least 10% of the financial rights of the parent company at the payment date, and (iii) which is either exempt from any corporate tax on the dividends or subject to tax thereon at a low rate (i.e. a rate lower than 11.12%).

5 Tax treatment of foreign REITs and its domestic shareholders

Foreign REIT	Corporate shareholder	Individual shareholder
Election for SIIC regime possible.	Same treatment as domestic shareholders of SIIC.	Same treatment as domestic shareholders of SIIC.

Foreign REIT

In principle, the double tax treaty states that the income and gains deriving from property located in a foreign state are taxable in that foreign state.

Accordingly, the rental income of a foreign company is taxed in France as long as the relevant properties are located in France. In this respect, the foreign company can benefit from the SIIC exemption regime if it meets the applicable conditions and if it has validly elected for the SIIC regime (notably, the parent company and its corporate subsidiaries meet the SIIC requirements, see supra 2.2, 2.3 and 2.4). ■

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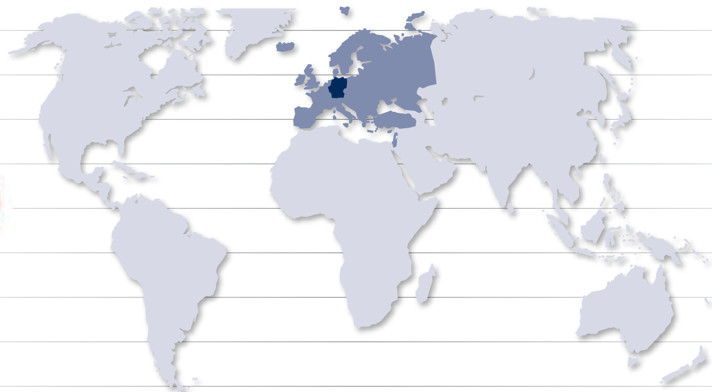
Europe

Germany

(G-REIT)

Global REIT Survey 2011

September



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For any questions or feedback related to this survey, please contact:

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EPRA REPORTING

European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type
G-REIT	2007	Law on German real estate joint stock companies with publicly quoted shares (Real Estate Investment Trust law – REIT law).	Corporate type.

After intensive three-year political discussions, Germany implemented the German Real Estate Investment Trust (G-REIT) in 2007 in order to meet the market demands inspired by the introduction of the REIT in other European countries. The G-REIT is a joint stock company with specific rules laid out by the REIT law.

The REIT law came into force on June 01, 2007 with retroactive effect as of January 01, 2007. The REIT law is supported by changes in various tax laws, such as the German Income Tax Act and the Investment Tax Act. The REIT law has been amended by the Tax Amendment Act 2009 (*Jahressteuergesetz* 2009). One of the major changes was that shareholders may benefit from the privileged taxation generally applicable for dividend income if such dividends are sourced by pre-taxed profits of the G-REIT and certain further requirements are fulfilled.

The tax authorities published on July 10, 2007 an administrative guidance according to which upon registration as a REIT with the Commercial Register, tax exemption is to be assumed to start with the beginning of the year of registration, and therefore upon application, no tax prepayments are to be assessed.

Up to now three REITs are listed, and 6 companies are registered at the Federal Central Tax Office (*Bundeszentralamt für Steuern*) as pre-REITs. The listed companies, alstria office REIT-AG, Hamborner REIT AG and Fair Value REIT-AG, have together a market capitalisation of approx. EUR 0.7 billion.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Germany	4	14,6	1,3	0,2%

German REITs

Company Name	Market cap (€m)	Sector type
Alstria Office REIT-AG	726	Office,Others,Residential,Retail
Prime Office AG	310	Office
Hamborner REIT AG	239	Office,Residential,Retail
Fair Value REIT-AG	43	Logistic,Office,Others,Retail

The Squaire – IVG (Franfurt) The Squaire at Frankfurt Airport is one of the most spectacular buildings in Europe: 660m long, the 140,000 sqm office and retail space has nine floors and 'New York City' concept.

2 Requirements

2.1 Formalities / procedure

Key requirements
- G-REIT: Registration with the Commercial Register. - Pre-REIT: Registration with the Federal Central Tax Office.

G-REIT

The G-REIT must be registered with the Commercial Register which examines whether the G-REIT qualification requirements are met. The G-REIT comes into existence with its registration.

The main requirements for the registration of a G-REIT are as follows:

- joint stock company with minimum share capital of EUR 15 million;
- corporate seat and place of management in Germany;
- by-laws must provide for certain provisions (e.g. purpose of the company, compensation of shareholders with a shareholding of less than 3% in case of termination of the tax-exempt G-REIT status, etc.);
- listing at stock exchange;
- at least 25% widely held shares at IPO (after listing reduced to 15%);
- direct shareholding of a shareholder must be less than 10%;
- asset, equity and activity requirements (see under no. 2.4. and 2.5).

Pre-REIT

Before registration with the Commercial Register, a pre-REIT status can be obtained. A pre-REIT can be characterised as a joint stock company which does not yet have to fulfill all the requirements for a G-REIT. The Pre-REIT status requires registration with the Federal Central Tax Office. Similarly to the G-REIT, the Pre-REIT status allowed capital gains from the transfer of real estate to the pre-REIT to be subject to exit tax rules (see no. 2.3 "Listing requirements" and 3.2 "Transition regulations/Exit-Tax"). At the end of each business year following the year of registration, the pre-REIT must prove to the Federal Central Tax Office that its activities comply with certain G-REIT requirements.

With the exception of the exit tax rules, the taxation of the pre-REIT follows the general tax rules applicable for corporations.

For the registration as a pre-REIT the company must fulfill the following requirements:

- joint stock company;
- corporate seat in Germany.

The pre-REIT must fulfill at the end of the business year following the year of registration and each consecutive year the following requirements:

- objectives of the pre-REIT must be limited to the objectives of a G-REIT;
- 75% of its total assets must consist of immovable property;
- 75% of its gross earnings must be derived from renting, leasing, letting and disposal of real estate;
- a pre-REIT service company's assets may not exceed 20% of the pre-REIT's total assets;
- a pre-REIT service company's gross earnings may not exceed 20% of the pre-REIT's gross earnings.

The assets and gross earnings requirements mentioned above must be verified by an auditor upon the request of the Federal Central Tax Office.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Joint stock company.	EUR 15 million.

Legal form

The only legal form which is permitted for a G-REIT is the joint stock company (*Aktiengesellschaft - AG*). The company's name must include the words "*REIT-Aktiengesellschaft*" or any other reference, which contains the words "Real Estate Investment Trust" or the abbreviation 'REIT'. Because of its qualification as a joint stock company, the G-REIT is subject to the standard regulations of the Joint Stock Company Act and the Commercial Code. This is the case, unless the REIT Act specifically indicates otherwise.

Minimum share capital

A G-REIT must have a share capital of at least EUR 15 million. All shares must be voting shares. Different categories of shares are not allowed. Shares can only be issued against the full payment of the issuance price.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
- 15% of the shares must be widely held (25% at the time of IPO). - A shareholder is not allowed to own directly 10% or more of the shares or the voting rights of the company.	Yes

Shareholder requirements

At least 15% of the G-REIT shares must be widely held, which means that such shares must be owned by shareholders who may each hold less than 3% of the voting rights of the G-REIT. Consequently, at least six shareholders are needed to satisfy this 15% requirement. At the time of the stock exchange listing, the precondition of widely held shares must be fulfilled for at least 25% of the shares of the G-REIT.

In addition, it is not allowed that a single shareholder directly holds 10% or more of the shares or the voting rights of a G-REIT (including shares held on his/her behalf by a third party). However, this limitation is not applicable to an indirect shareholding. Consequently, holding structures legally allow circumventing this threshold.

At the end of each calendar year, the G-REIT is obliged to inform the Federal Financial Service Agency (*Bundesanstalt für Finanzdienstaufsicht*) of the shares which are widely held. The Federal Financial Service Agency will inform the Federal Central Tax Office if the 15% widely held shareholding requirement is not met. The REIT law provides for further reporting requirements which apply to a shareholding of 3%, 80% and 85% of the G-REIT's voting rights.

Listing requirements

A G-REIT's shares must be admitted to trading in an organised market in the meaning of the Securities Trading Law in a Member State of the European Union or in another signatory state to the Treaty on the European Economic Area (Iceland, Liechtenstein, Norway).

A pre-REIT must apply to be admitted to trading in an organised market mentioned above within three years of the application being made to register the joint stock company as a pre-REIT. The time allowed may be extended by one year on application by the Federal Financial Supervisory Authority if there are exceptional circumstances justifying such an extension. Should no application be made within the time allowed, or should application be made within that time and be refused, the company will lose its status as pre-REIT. Because of the financial crisis the legislator extended this period for one more year. As a result a pre-REIT can apply for registration at an organized market within five years.

2.4 Asset levels / activity test

Restrictions on activities / investments
- 75% immovable property requirement. - 75% immovable property income requirement.

At least 75% of the total assets of the G-REIT must be comprised of immovable property and at least 75% of its gross earnings must derive from rental, leasing, letting and disposal of immovable property.

A G-REIT may only provide secondary activities (activities serving third party investment portfolio) via a 100% owned REIT service company. The assets related to such services are not allowed to exceed 20% of the total assets of the G-REIT. In addition, the gross earnings from such services are not allowed to exceed 20% of the gross earnings of the G-REIT.

A G-REIT must not engage in trading in real estate. Trading is assumed when the G-REIT receives revenues from the disposal of real estate within a period of five years, which exceeds 50% of the average value of its real estate portfolio within that same period. The valuation of the real estate portfolio will be based on fair value as defined in IAS 40.

Investments in immovable property, which is used primarily (i.e. more than 50%) for residential purposes, are prohibited if the property is located in Germany and was built prior to January 01, 2007. The G-REIT may invest in all kinds of real estate abroad insofar as the real estate can be owned by a REIT corporation, REIT partnership or a REIT trust or a corporation, partnership or trust comparable to a REIT under the laws of the respective foreign country.

The G-REIT is allowed to hold German real estate via a German partnership, but not via a German corporation. A German corporation may only be held for such purposes if the company acts as an unlimited liable partner in a real property partnership without any participation in the property of the partnership (i.e. the corporation is a 0% general partner in the real estate partnership.) This refers to the structure of a GmbH & Co. KG, which is a partnership with an unlimited liable partner corporation. The partnership must have the same business objectives as the G-REIT itself.

Foreign real estate may be held through a German or foreign property partnership as well as through a 100% owned German or foreign property corporation of the G-REIT.

2.5 Leverage

Leverage
The equity must equal at least 45% of the total asset value of immovable property (valuated at IAS 40).

The equity of the G-REIT, as generally shown in its consolidated accounts (if no obligation to consolidated accounts is existing, the single accounts are decisive) at the end of the fiscal year, must equal at least 45% of the total asset value of immovable property in the accounts (valued at IAS 40). As at least 75% of all assets at the end of each business year must be immovable assets, the equity must not fall below 33.75% of total assets. This means the leverage of a G-REIT cannot exceed 66.25%.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of net income of the year.	Deferral of 50% of the capital gains from real estate assets allowed.	Distribution is required until the end of the following business year.

Operative income
The G-REIT has to distribute at least 90% of its net income, calculated under German GAAP, to its shareholders until the end of the following business year.

Capital gains
Up to half of the proceeds from disposals can be transferred to a reserve. The distributable profits will be reduced accordingly.

Any unused reserves must be dissolved at the latest by the end of the second financial year after creation. The reserves can either be deducted from the acquisition or construction cost of real estate assets acquired or created in the respective two years or must be added to the distributable profits in the year in which they are dissolved.

2.7 Sanctions

Penalties / loss of status rules
- Several penalties. - Loss of REIT status.

Penalties will be levied by the competent tax office as follows:
- if less than 90% of the gross earnings are distributed, the penalty amounts to 20% to 30% of the difference;
- if less than 75% of the assets consist of immovable property, the penalty amounts to 1% to 3% of the difference;
- if less than 75% of the gross earnings is derived from qualifying income, the penalty amounts to 10% to 20% of the difference;
- if more than 20% of the gross revenue consists of real estate advisory or other related services to third parties, the penalty amounts to 20% to 30% of the earnings exceeding this threshold.

If for three consecutive years, the G-REIT continuously violates one and the same qualifying requirement as defined by the REIT law, it will lose its status as a tax-exempt corporation after the end of the third year. If the G-REIT continuously violates different qualifying requirements over five consecutive years, it will lose its status as a tax-exempt corporation after the end of the fifth year.

If the G-REIT performs forbidden real estate trading activities, it will lose its status as a tax-exempt corporation with effect from the financial year in which the limit is exceeded.

If the G-REIT is de-listed, it will lose its status as a tax-exempt corporation at the end of the financial year prior to the year of de-listing.

If 10% or more of the shares or the voting rights of a G-REIT can be attributed directly to one shareholder, this will not cause the G-REIT to lose its tax-exempt status. Nor will the shareholder forfeit his dividend or voting rights. However, he would only be able to exercise the rights of a double tax treaty applicable for a shareholding of less than 10% of the G-REIT's shares.

If less than 15% of a G-REIT's shares are in free float for three consecutive years, the G-REIT will cease to be tax exempt from the end of the third year. The same applies if the aforementioned 10% threshold is violated for three consecutive years. These rules do not apply as long as the G-REIT cannot infer the breach from the notifications required under the Securities Trading Law.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
All income is tax-exempt.	Capital gains are tax-exempt.	Reduced withholding tax on distributions to the G-REIT.

Current income
The income of a G-REIT is not subject to corporate or trade income taxes irrespective of whether the income is generated from real estate assets or not. The tax exemption applies for the first time as of the beginning of the business year in which the G-REIT is registered as a REIT with the Commercial Register. The tax exemption only applies to the G-REIT's income.

Consequently, the income of a subsidiary or a partnership of the G-REIT (the latter is, according to German tax principles, only tax transparent for corporate income tax but not for trade income tax) remains subject to taxation at their level. In this context it should be noted that German trade tax law provides under certain requirements for a trade tax exemption for income from real estate.

Capital gains
As is the case of the G-REIT's other income, capital gains are exempt from corporate and trade income taxes.

Withholding tax
Dividend distributions from German subsidiaries of the G-REIT to the G-REIT are in the first place subject to the standard withholding tax of currently 25%, but two-fifth of this tax can be reclaimed by the G-REIT upon application.

Other Taxes
Taxes other than income taxes will be levied. Specifically, real estate transfer taxes will be levied on the acquisition and sale of real estate.

Accounting rules

The income is to be determined based on German GAAP. Real estate assets can only be depreciated using the straight line method.

The thresholds which must be met by the G-REIT (see no. 2.4 and 2.5) are determined based on IFRS rules.

The financial statements of the G-REIT must be audited. The auditor must confirm inter alia that the threshold requirements were met.

Hackesches Quartier IVG (Berlin): The building complex fills the last gap in heart of historic Berlin. Main tenants are the advertising agency Scholz & Friends, the Berlin energy provider GASAG and the ADINA Apartment Hotel

3.2 Transition regulations/Exit-Tax

Conversion to REIT status
- 50% tax exemption on conversion into a G-REIT for eligible assets. - 50% tax exemption on disposal of eligible assets to the G-REIT or pre-REIT.

The G-REIT obtains tax exempt status at the beginning of the taxable year, in which the joint stock corporation has been registered as a G-REIT in the Commercial Register. This event is treated as a taxable liquidation of the (prior) taxable joint stock corporation. The conversion of a property company into a G-REIT is thus (always) a taxable event, and the REIT law does not provide for a tax-free conversion. However, in the case that real estate was transferred to a G-REIT by way of a conversion into G-REIT status, only 50% of the capital gain becomes taxable (so-called exit taxation) if the real estate asset was acquired/constructed by the converted entity before January 01, 2005, and further provided that the conversion was made with legal effect prior to January 01, 2010.

A seller was taxed on only 50% of the capital gain from the sale of German real property to a G-REIT or a pre-REIT, if (i) as of January 01, 2007, the property was an asset of a German business of the seller for a period of at least five years, (ii) the property was not considered inventory, and (iii) the purchase agreement was executed after December 31, 2006, and prior to January 01, 2010. The exit tax was also applicable for Sale-and-Lease-Back transactions.

The exit tax privilege was not granted in case of certain transactions, which were tax privileged under other rules.

The exit tax privilege will retroactively be withdrawn if *inter alia* the G-REIT or pre-REIT (i) disposes of the land and the buildings within four years of concluding the contracts as mentioned above or (ii) if the pre-REIT loses its status as pre-REIT, because it has not changed its Status into a G-REIT within five years after registration as a pre-REIT, or (iii) the pre-REIT does not become a REIT corporation within four years after the purchase of the real estate. The party acquiring the property will be jointly liable for the taxes, which arise as a result of losing the exit tax privilege.

3.3 Registration duties

Registration duties
Real estate transfer tax.

The transfer of real estate to and from a G-REIT is not exempt from real estate transfer taxes of generally 3.5% of the sales price (Saarland: 4%, Berlin, Bremen, Hamburg, Lower Saxony and Saxony-Anhalt: 4.5%, Brandenburg, Thuringia, Schleswig-Holstein (starting 1, January, 2012) 5%). For real estate transfer tax the conversion of a corporation into a Pre-REIT or G-REIT is not regarded as a taxable event according to German tax principles. The same applies for the conversion of a limited liable company (GmbH) into a stock corporation (AG).

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
In general fully taxable.	- In general final withholding tax of 25% plus a 5.5% solidarity surcharge on the withholding tax, totaling 26.375%.	- Final withholding tax for privately held shares. - Otherwise creditable/refundable withholding tax.

Corporate shareholder

The taxation of dividends at the level of the corporate shareholder depends on the taxation of the underlying income (pre-taxed profits) distributed by the G-REIT. Pre-taxed profits of a G-REIT can be caused by the taxation of profits of a real estate of the G-REIT in a foreign jurisdiction or the taxation of a subsidiary or a partnership (with foreign real estate) of the G-REIT. In case the underlying income has been taxed with at least 15% German corporate income tax or a comparable foreign income tax and certain further requirements are met, dividends sourced by such pre-taxed profits are 95% exempt from corporate income tax at the shareholder level. Otherwise, dividend income remains subject to corporate income tax at the level of the corporate shareholder at ordinary tax rates. The dividend income is subject to trade income tax.

Capital gains on the disposals of G-REIT shares are always subject to corporate and trade income tax at ordinary tax rates.

Individual shareholder

From January 01, 2009 onwards, dividends and all (i.e. short- or long-term) capital gains on the disposition of shares in a G-REIT realised by individuals as non-business income are subject to a (in principle) final withholding tax of 25% (plus solidarity surcharge of 5.5% thereon).

Long-term capital gains on privately held G-REIT shares acquired prior to January 01, 2009 remain tax exempt provided that the shares were held for more than one year and the shareholder did not own an interest of 1% or more in the G-REIT at any time during the five years preceding the sale of the shares.

Capital gains on privately held shares acquired on January 01, 2009 and onwards are fully subject to personal income tax (i.e. the final withholding tax does not apply), where the shareholder owned during the five years preceding the sale an interest of 1% or more in the G-REIT.

Dividends received by individuals as business income are fully subject to personal and trade income tax (trade income tax will be credited for personal income tax under certain requirements), unless the underlying income has been taxed with corporate income tax as outlined above (see under corporate shareholder). In case the underlying income has been taxed, the dividends are only with 60% subject to personal income tax but remain fully subject to trade income tax.

Capital gains on the disposal of G-REIT shares held in a business are fully subject to personal and trade income tax.

Withholding tax

Dividends from a G-REIT, as well as other benefits granted in addition to or instead of dividends, are subject to a withholding tax at a rate of 25% plus a 5.5% solidarity surcharge on the withholding tax, in total 26.375%. In case the G-REIT shares are privately held by an individual shareholder, the withholding tax is final. Otherwise the withholding tax is creditable / refundable at the shareholder's level.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Final withholding tax for dividends. - Generally, tax exemption for capital gains.	- Final withholding tax for dividends. - Generally, tax exemption for capital gains.	- 25% plus a 5.5% solidarity surcharge, resulting in a rate of 26.375% (or a reduced treaty tax rate or a reduced withholding tax rate for foreign corporate shareholders). - EU Parent-Subsidiary Directive not applicable.

Corporate shareholder

The withholding tax on dividends to foreign (non-resident) shareholders is a final tax, provided that the G-REIT shares are not assets of a German permanent establishment of such shareholder.

Capital gains from the disposal of G-REIT shares are taxable if the shares are assets of a permanent establishment, or if the foreign shareholder has held at least a 1% shareholding at any time within a five-year period prior to the sale of the shares. Usually, double tax treaties provide for a tax exemption of capital gains on the disposal of shares in Germany. However, several German tax treaties do not protect investors from the German capital gains tax, as they give Germany the right to tax capital gains from the disposition of shares in a real estate company.

Individual shareholder

The same principles apply as for foreign corporate shareholders.

Withholding tax

German domestic tax law provides that the foreign corporate shareholder is principally entitled to a refund of two-fifths of the withholding tax resulting in a final tax of 15% (which is equal to the corporate income tax rate) plus a 5.5% solidarity surcharge, resulting to a rate of 15.825%.

A double tax treaty may reduce the dividend withholding tax rate which amounts under German tax law to totally 26.375% (25% withholding tax plus 5.5% surcharge on the tax). Most German tax treaties provide that foreign shareholders are entitled to a reduced withholding tax rate of 15% if they are domiciled in the other treaty state. An exemption to this rule is, for example, the double tax treaty with Ireland. It provides for a reduced withholding tax rate of 10% for portfolio investments. Entitlement to a refund also requires that the investor qualifies for the treaty benefit under the German anti-conduit rules.

A corporate shareholder will not be able to exercise his rights to a further withholding tax reduction which would accrue to him if his shareholding was 10% or more.

Because of the tax-exempt status of the G-REIT, the EU Parent-Subsidiary Directive is not applicable.

5 Tax treatment of foreign REITs and its domestic shareholders

Foreign REIT	Corporate shareholder	Individual shareholder
Fully taxable.	Like dividends from G-REIT if foreign REIT is a qualifying REIT.	Like dividends from G-REIT if foreign REIT is a qualifying REIT.

Foreign REIT
A foreign REIT's German source income is taxable in Germany at the standard rules and rates applicable to a non-resident corporate taxpayer.

Corporate shareholder
Dividends distributed from a qualified foreign REIT as defined by the REIT law are fully taxable at the corporate shareholder level as far as the dividend was not sourced by pre-taxed profits (like in the case of dividends received from a G-REIT). A foreign REIT is qualified under the following cumulative requirements:

- the REIT is not domiciled in Germany;
- the gross assets of the REIT consists of more than 2/3 of immovable property;
- more than 2/3 of the gross earnings are derived from rental, leasing, letting and disposal of immovable property; the distribution deriving from immovable property of the REIT do not carry underlying foreign taxes like the German corporate income tax;
- the REIT is not under the supervision of a financial supervision commission;
- the shares of the REIT are listed at an organised market.

In order to avoid the double taxation any foreign withholding taxes levied on distributions sourced by non pre-taxed profits of a qualified foreign REIT will be credited in Germany.

Dividends received from a non-qualifying foreign REIT or from a qualifying foreign REIT which are sourced by pre-taxed profits are taxed according to general German tax principles depending on the qualifications of the foreign REIT as a corporation or transparent entity. If the non-qualifying REIT is under German tax principles a corporation, 95% of the dividends and capital gains from the disposal of the shares in the REIT would be exempt from corporate income tax at the level of the corporate shareholder. The dividend income would be subject to trade income tax.

Individual shareholder
As of January 01, 2009, dividends distributed from a qualifying foreign REIT as defined by the REIT Act, are taxable at the individual shareholder level with a flat rate of 25% plus solidarity surcharge if the shares are privately held (like in the case of dividends received from a G-REIT). Dividends received from a non-qualifying foreign REIT are taxed according to German tax principles depending on the qualifications of the foreign REIT as a corporation or transparent entity. If the non-qualifying REIT is under German tax principles a corporation, dividends and capital gains from the disposal of privately held shares would be subject to taxation at the level of the individual shareholder with a flat rate of 25% plus solidarity surcharge. ■

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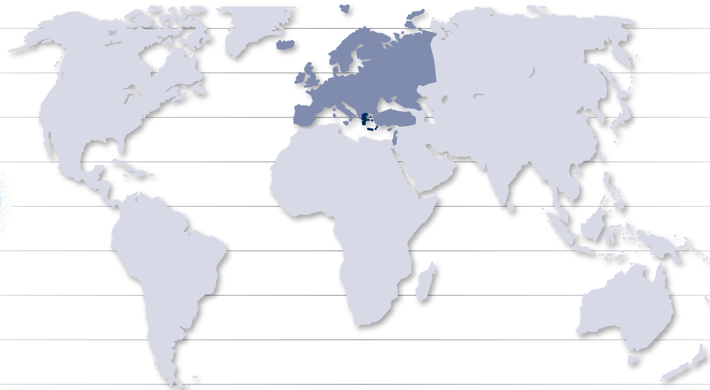
Caveat: All information in this paper is based on our research as at June 2011. No reliance should be placed on nor should decisions be taken on the basis of the contents of this brochure. Any party or individual involved in the preparation of this brochure shall bear no responsibility for the consequences of any action taken on the basis of information contained herein, including errors and omissions. Throughout this survey, all REIT data provided in the "Sector summary (end of July 2011)" have been kindly provided by Macquarie Global Property Securities Analytics.

Europe

Greece

(REIC)



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For any questions or feedback related to this survey, please contact:

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1 General introduction

	Enacted year	Citation	REIT type
REIC	1999	Law 2778/1999 (REIC Law)	Corporate type

Greek Law recognises the legal forms of Real Estate Mutual Funds (REMF) and Real Estate Investment Companies (REIC) which are basically regulated by Law 2778/1999 (hereafter 'REIC law'). Although the exact term 'REIT' does not exist in the Greek legislation, the REIC could be qualified as such. The REIC law was introduced in December 1999, and has been amended thereafter by Laws 2892/2001, 2992/2002, 3522/2006 3581/2007 and 3697/2008.

Only four REICs currently exist in Greece and they have been mostly set up and managed by Greek banks (see below). The investor base of those REICs is predominantly made up of Greece-resident companies and individuals. The tax and regulatory legislation applicable to Greek REICs is often imprecise and several grey areas still exist, particularly in respect of certain tax aspects of REICs. The existing grey areas in the tax legislation will be identified in more detail throughout this report.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance- 12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Greece	2	2,2	0,4	0,1%

Top five REICs

Company Name	Market cap (€m)	Sector type
Eurobank Properties Real Estate Investment Co	341	Industrial, Office, Others, Parking, Retail
Trastor Real Estate Investment	44	Infrastructure, Office, Parking, Retail

2 Requirements

2.1 Formalities / procedure

Key requirements
- Prior operating licence issued by the Hellenic Capital Market Commission required. - Functions are supervised and regulated accordingly.

A Greek REIC has the legal form of a *Société Anonyme* (SA) and is subject to all the formalities and procedures set out by Greek Corporate Law (L.2190/1920). Moreover, its incorporation requires a prior operating license issued by the Hellenic Capital Market Commission. Its activities are also supervised and regulated accordingly.

Its operating activity must solely consist of managing a portfolio of real estate, certain 'capital means' (defined as certain highly liquid and short-term investments in bonds and certain marketable securities) and interests in other SAs whose sole purpose is to invest in real property and whose assets comprise solely of investments in real property. A thorough description of investment policy and real estate use must be submitted to the Hellenic Capital Market Commission for the issuance of the REIC´s operating license.

A REIC must file an application for its listing on the Athens Stock Exchange or in another EU Stock Exchange within one year of its incorporation. The Capital Market Commission may decide to extend the annual deadline for listing in the stock market up to two years in total, after an extension has been requested by the REIC.

For a REIC to be considered Greek and hence be regulated by REIC law, its statutory seat must be in Greece. There are no provisions in Greek law which define a company as foreign if its management is seated abroad. However, the effective place of management criterion is used by the Greek tax authorities when an overseas entity has its effective place of management in Greece. Nevertheless, this scenario should be avoided in order prevent the authorities from questioning the nationality of the company.

Currently under Greek law, it should be noted that no foreign managing company (even an EU company) may be the manager of a Greek REIC. In order for the REIC law to apply, the management company must be a Greek resident. REICs' investments in securities (not in real estate) must be supervised by a custodian bank operating in Greece.

No possibility of a pre-REIC structure is provided by the Law.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Listed Société Anonyme	Approx. EUR 29 million

Legal form

A REIC must have the legal form of a *Société Anonyme* listed on the Greek Stock Exchange or another EU Stock Exchange.

Minimum share capital

The required minimum share capital amounts to EUR 29,350,000.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
None. Transfer of REIC's real property to shareholders, founders, Board members and CEOs and their relatives is forbidden.	Yes

Shareholder requirements

The transfer of REIC's immovable property to founders, shareholders, Board of Director Members, CEOs, and by their relatives up to the third degree is forbidden.

No difference between resident and non-resident shareholders in regard of ownership (status, shareholding percentage, etc.) is provided by the Law.

Listing requirements

The REIC's stocks must be listed either on the Athens Stock Exchange or another EU Stock Exchange.

2.4 Asset level / activity test

Restrictions on activities / investments
- At least 80% of the total assets must be invested in real estate. - Investment in capital market means (as previously defined under 2.1 above). - Investment in buildings under development is only allowed if the cost of development does not exceed 25% of the total value of the property after development finalisation. - Greek REICs may invest in at least 90% of the shares of Sociétés Anonymes (A.E.) having as special purpose the investment in real estate and whose capital is solely invested in real property. - Moveable and immovable assets owned by a REIC for its own operation purposes may not exceed 10% of the REIC's investment assets. - May invest abroad, with certain conditions applying for investment into countries outside the European Economic Area (EEA). - Investments in non EU-members states may not exceed 10% of total real estate investments. - May not invest in a single property exceeding 25% of the REIC's total assets.

At least 80% of the total assets must consist of real estate.

For REIC law purposes, 'real estate' means real estate situated in Greece or the EU, which is owned by the company as full or bare owner or as a beneficial owner (usufructuary) and that may be used for business facilities or for other commercial or industrial purposes.

Greek REICs may invest in at least 90% of the shares of *Sociétés Anonymes* (A.E.), having real estate investments as their special purpose, and of which the total capital is invested in real estate.

Real estate situated in third countries (outside the EEA) may also be included, provided that it does not exceed the 10% of total real estate investments of the company.

A REIC may invest in development / redevelopment property as long as the construction / redevelopment costs do not exceed 25% of the value of the assets being developed / redeveloped.

A Greek REIC may not invest in a single property exceeding 25% of its total assets.

The REIC may also invest in other non-real estate assets serving its operational needs and which, together with real estate used for its operations, do not exceed 10% of the value of the investment real estate at time of purchase.

As stated above, 80% of the total assets of the REIC must be invested in real estate. A further 10% (maximum) can be invested in self-used assets. The remainder (10-20% of total assets) can be invested into securities. A REIC cannot invest more than 10% of its securities quota (i.e. 1-2% of total assets) in securities of the same issuer. There are no legal restrictions if the securities consist of a subsidiary's shares. Regarding a partnership structure, the partnership interest would no longer be considered 'securities'. Hence, such investment is not allowed.

2.5 Leverage

Leverage
- Overall leverage must not exceed 50% of the REIC's assets. - Leverage linked to development property must not exceed 25% of value of the real estate under development. - Specific 10% of total net equity rule for the purchase of real estate.

Financing through either loans or credits must not exceed 50% of the REIC's assets. The loans or credits can only be obtained from a financial institution.

Loans received by the REIC for the purchase of real estate for its operational requirements (i.e. non-investment property) must not exceed 10% of the total net equity of the REIC minus the total investments in real estate. The value of such loans is not included in the 50% threshold mentioned above.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
35% of its annual net profits.	No obligation.	Annually.

Operative income

The REIC should generally distribute at least 35% of its annual net profits to its shareholders. The distribution of a smaller percentage or no distribution at all is only allowed pursuant to a Resolution taken at the Shareholders' Meeting (provided a clause exists in the REIC's Articles of Association for the creation of a tax-free reserve or for the distribution of free shares accompanied by a share capital increase).

Capital gains

Capital gains do not need to be distributed. By virtue of a resolution of the General Assembly of Shareholders of the REIC, capital gains may be allocated in a special reserve to cover losses from the sale of securities. This reserve can no longer be credited when it reaches 300% of the REIC's total investments in securities.

Board of Director Fees

During any one accounting period, the REIC cannot provide remuneration to Board of Directors that exceeds, in total, 10% of the profits distributed at the year's end or 20% of the aggregate valuation step up in the value of its investments at the year end.

2.7 Sanctions

Penalties / loss of status rules
- Violations may trigger the imposition of penalties. - No loss of REIC status.

The REIC would not lose its tax status if it deviates from its obligations according to the applicable law.

Tax penalties may be applied at different levels on a case-by-case basis depending on the nature of the infringement.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Investment and liquid assets taxed at 10% of European Central Bank (ECB) interest rates plus 1%.	Exempt due to the special tax treatment of the REIC.	N/A

Current income
REICs are subject to a special taxation rate, which amounts to 10% of the European Central Bank (ECB) interest rate in force (Reference Interest Rate) increased by 1% and is calculated upon the average of their investments plus any available funds (cash and securities), at their current value, as shown in their six-months investment tables which are a legal requirement to produce. For example, assuming ECB interest rate of 4%, the tax rate would be calculated as follows: 10% x (4% + 1%) = 0.5%. The tax is payable by the REIC. Its direct shareholders have no further tax liability upon receipt of dividends. Should a change of the Reference Interest Rate occur, a new taxation basis would be valid starting the first day of the month following the stated amendment. REICs are not subject to the 3% supplementary tax on gross rental income or deemed income from the self-use of buildings. In addition, they are not subject to the real property revaluation tax of Law 2065/1992.

Capital gains
Pursuant to the recent amendments introduced by law 3843/2011, the transfer of listed shares acquired after January 1, 2012 will be subject to tax under the general income tax rules, irrespective of whether the seller is an individual or a legal entity. Capital losses can be offset against capital profits if incurred in the same year; otherwise, the losses may be carried forward.

For shares acquired up to December 31, 2011: (i) if the seller is an individual, the gain is exempt and (ii) if the seller is a company keeping double entry books, the gain is also exempt, provided it is posted to a special reserve. If the seller is a company keeping double entry books, but the specific gain is not booked in a special reserve account, the gain is taxable under normal corporate income tax rules. Therefore, the provisions of laws 3842/2010 and 3697/2008 which provided for a withholding tax on the gains will never be applicable.

Other taxes
Annual real estate duty (0.1%) is imposed on the tax value of the real estate assets owned by the REIC. From the January 01, 2010, the duty is substituted by the Annual Real Property Tax, levied at the same rates and taxable basis.

Upon acquisition of real property by the REIC, no Real Property Transfer Tax is imposed.

Following the listing on a stock exchange, a transaction tax (not capital gains tax) will be levied upon the sale of any listed shares (acquired before December 31, 2011) at a rate of 0.20% from April 1, 2011 (previously 0.15%) on the transfer value of the shares. The sale of the listed shares acquired after January 01, 2012 will be subject to tax under the general income tax rules as described above.

Withholding tax
Income generated from foreign or Greek securities is not subject to any Greek withholding tax upon repatriation (please refer to 2.4 as to investment in capital market means). However, especially in case of interest from bond loans, the said tax exemption is valid, provided that the bonds were acquired

at least 30 days before the interest payment date. In case this condition is not met, a final 10% withholding tax is imposed on the interest income. The above amendment is valid for income received as from January 01, 2007. Income tax treaties do not apply to reduce the rate of withholding.

Accounting rules

The REIC can choose whether to follow Greek GAAP or IFRS until it is officially listed on a stock exchange. Then, it must follow IFRS.

3.2 Transition regulations

Conversion into REIC status
Tax benefits upon mergers, spin-offs, etc of real estate companies.

Greek REICs enjoy the tax benefits provided by Law 2166/1993 for certain cases of mergers, spin-offs etc. Benefits available may include exemptions from transfer taxes and capital gains.

3.3 Registration duties

Registration duties
Exemption from any Greek tax and stamp duties on REIC's share issue.

The issuance of REIC's shares and the transfer of real estate to a REIC are exempt from any Greek tax duties, stamp duties, or any kind of tax liability.

The transfer of real estate by the REIC is subject to real estate transfer tax which is borne by the buyer, rated at 8% up to a tax base of EUR 20,000 and 10% for the amount exceeding EUR 20,000. The tax liability is payable by the buyer.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Tax-exempt on dividends received from REIC.	Tax-exempt on dividends received from REIC.	N/A

Corporate shareholder

The dividends distributed by the REIC are tax-exempt. The tax treatment of capital gains arising from the disposal of REIC should follow the same treatment as gains from sales of listed shares, though this is still to be clarified.

Individual shareholder

The dividends distributed by the REIC are tax-exempt. The tax treatment of capital gains arising from the disposal of REIC shares should follow the same treatment as gains from sales of listed shares, though this is still to be clarified.

Withholding tax

N/A

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
No Greek withholding tax-exempt on dividends paid by REIC.	No Greek withholding tax-exempt on dividends paid by REIC.	N/A

Corporate shareholder

Dividends distributed by the REIC to a non-resident corporate shareholder are not subject to withholding tax in Greece. The treatment of the capital gains from the sale of the REIC's shares is to be clarified, since the new law, which introduces taxation of these gains under the general income tax rules, does not provide for any special treatment in the event that the seller is a foreign tax resident.

It is not clear whether Greek REICs can benefit from double tax treaties entered into by Greece.

Individual shareholder

Dividends distributed by the REIC to a non-resident individual shareholder are not subject to withholding tax in Greece. The tax treatment of the capital gains from the sale of REIC listed shares, in the event that the seller is a foreign tax resident is to be confirmed, since Law 3943/2011 does not include any specific provisions in that respect.

It is not clear whether Greek REICs can benefit from double tax treaties entered into by Greece.

Withholding tax

No withholding tax is levied.

5 Treatment of foreign REIT and its domestic shareholder

Foreign REIC	Corporate shareholder	Individual shareholder
No specific tax privilege.	No specific provision.	No specific provision.

Foreign REIC

The Greek REIC law only applies to Greek REICs and does not cover the cases of foreign REICs. Foreign REICs have not been dealt with by the Greek tax authorities and therefore it is unclear as to the treatment of foreign REICs under Greek law.

As such, the exact treatment should be determined on a case-by-case basis.

Domestic corporate shareholder

There is no specific tax provision dealing with the taxation of income received by a company resident in Greece from a non-resident REIC. In the absence of specific rules, it is expected that such foreign-sourced income should be taxed in the hands of the Greek corporate shareholder according to the general rules applicable to income from a foreign source. However, as this has not been dealt with by the Greek tax authorities previously, the exact treatment is unclear.

Domestic individual shareholders

There is no specific tax provision dealing with the taxation of income received by an individual resident in Greece from a non-resident REIC. In the absence of specific rules, it is expected that such foreign-sourced income should be taxed in the hands of the Greek individual shareholder according to the general rules applicable to income from a foreign source. However, as this has not been dealt with by the Greek tax authorities previously, the exact treatment is unclear. ■

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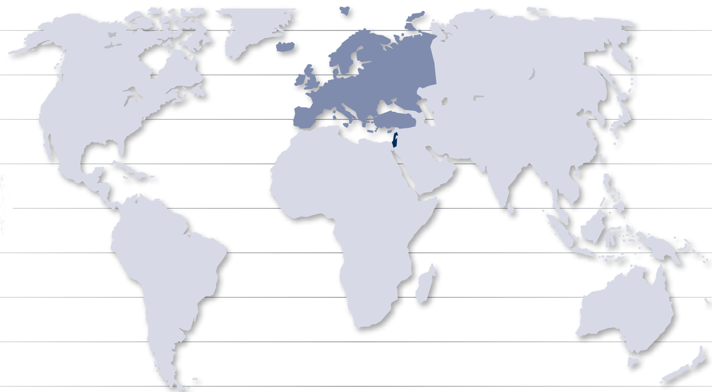
Europe

Israel

(REIT)



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EPRA REPORTING

European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type
REIT	2006	Sections 64A2-64A11 of the Israeli Tax Ordinance	Corporate type

The REIT (Real Estate Investment Trust) regime was introduced into the Israeli tax legislation in 2006. The Israeli REIT is a 'flow-through' regime. As a result, each of the REIT investors is taxed on the distributed REIT incomes.

The REIT is governed by Sections 64A2-64A11 to the Israeli Tax Ordinance.

In this model, pension benefit funds, saving benefit funds and severance pay benefit funds are usually exempt from corporate tax on the income from the REIT, and corporations that invest in the REIT are subject to corporate taxes at ordinary rates (24% in 2011 and reduced to 23% in 2012, 22% in 2013, 21% in 2014, 20% in 2015, 18% in 2016). Individuals are subject to ordinary individual tax rate - 45% in 2011 and reduced to 44% in 2012, 43% in 2013, 42% in 2014, 41% in 2015, and 39% in 2016).

The reduction in corporate tax rate and ordinary individual tax rate should be taken into consideration in every place in this document when tax rates are dealt.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Special purpose company required. - Incorporated in Israel. Controlled and managed from Israel. - Company's shares are listed for trading in a stock exchange in Israel within 12 months from the date of its incorporation and are actively traded. - Certain assets' value / ratio should be maintained. - At least 50% of the Company's means of control are held, directly or indirectly, by more than five shareholders.

The REIT regime applies only to a new company that is established for this purpose.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Public company traded in the Tel Aviv Stock Exchange (TASE).	No

Legal form

A REIT must be a public company listed for trade in the Israeli stock exchange (TASE). It must be tax-resident in Israel. Apparently, the REIT Subsidiaries can be resident outside Israel, but 75% of the value of the income-yielding real estate of the REIT must be located in Israel.

Minimum share capital

No minimum share capital required.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
At least 50% of the company's means of control should be held by more than five shareholders.	Yes

Shareholder requirements

At least 50% of the company's means of control should be held by more than five shareholders. "Means of control" is defined as one of the following: the right to profit, the right to appoint director or manager in the company or similar function, voting rights, the rights to liquidation proceeds, or the power to order or instruct someone who holds any of the rights listed above to act on his behalf.

The company must meet these conditions on the testing dates, June 30 and December 31 of each year.

Listing requirements

The company must be list for trade in the Israeli stock exchange (Tel-Aviv) within a period of 12 months from the date of incorporation. The REIT may also dually list abroad.

2.4 Asset levels

Restrictions on activities / investments
- 95% or more of the value of the REIT's assets must consist of income-yielding real estate and liquid assets (cash, deposit, bond, etc.). - 75% or more of the value of the REIT's assets must consist of: (1) income-yielding real estate. (2) Money received from a first issue of the REIT's securities, which were listed for trading on the stock exchange in Israel – during two years after the day of issue. (3) Money received from an additional issue of the REIT's securities, which were listed for trading on the stock exchange in Israel – during one year after the day of issue. (4) Consideration from the sale of real estate – during one year after the day of issue. - The value of the income-yielding real estate, and the money listed above, exceeds 200 million NIS. - 75% of the value of the income-yielding real estate must be located in Israel.

The REIT must meet the following conditions on the testing dates each year:

- 95% or more of the value of the REIT's assets must consist of income-yielding real estate and liquid assets (cash, deposit etc);
- 75% or more of the value of the REIT's assets must consist of:
  1. income-yielding real estate;
  2. Money received from a first issue of the REIT's securities, which were listed for trading on the stock exchange in Israel – during two years after the day of issue.
  3. Money received from an additional issue of the REIT's securities, which were listed for trading on the stock exchange in Israel – during one year after the day of issue.
  4. Consideration from the sale of real estate - during one year after the day of issue.
- The value of the income-yielding real estate exceeds NIS 200 million;
- 75% of the value of the income-yielding real estate must be located in Israel.

"Income-yielding real estate" is defined as real estate that generates income from rent and from additional activities, as long as at least 70% of the real estate is developed and the real estate is not considered inventory in the books of the fund.

2.5 Leverage

Leverage
Debit is limited to 60% of the income-yielding real estate's value plus 20% of the other assets it holds.

The company's obligations (other than equity) do not exceed 60% of the income-yielding real estate's value plus 20% of the other assets it holds.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of its profits.	100% of its capital gain from disposal of real estate.	- Distribution of the operating income must take place no later than April 30 of the following year. - Distribution of the capital gain must take place in a period of 12 months from the sale's date of the real estate.

Operative income
The REIT is obliged to distribute 90% of its profits calculated based on accounting principles. The REIT may choose to distribute an additional amount equal to the depreciation.

Capital gains
The REIT is obliged to distribute 100% of its capital gain from disposal of real estate.

Timing
Distribution of the operating income must take place no later than April 30 of the following year.

Distribution of the capital gain must take place in a period of 12 months from the sale's date of the real estate.

2.7 Sanctions

Penalties / loss of status rules
Loss of tax privilege.

The REIT will be taxed like an ordinary company from the date that requirements are no longer met. If the company fails to meet the conditions on the testing dates in any given year but, within a period of up to three months, successfully meets the conditions and continues to do so for a consecutive year, the company will be considered a REIT throughout the entire period.

REITs that do not meet the requirements or choose to discontinue REIT status will be taxed as ordinary company from the date of its election or 30 days later, according to the latest, or from the date that requirements are no longer met.

3 Tax treatment at the level of REIT

3.1 Corporate tax /withholding tax

Current income	Capital gains	Withholding tax
- No taxation of distributed eligible income. - Undistributed prohibited income subject to 60% tax rate. In case of distribution 70% tax rate.	Distributed capital gains are tax exempt.	- Deduction only if levied on taxable income. - No domestic withholding tax.

Current Income
The REIT is a 'flow-through' regime. However, the REIT is subject to corporate taxes on undistributed income.

A 70% tax rate applies to 'prohibited income' upon distribution; 60% if not distributed.

'Prohibited income' is defined as: (1) income from the sale of inventory (real estate or otherwise); (2) income other than the following to the extent that such income exceeds 5% of the revenues of the fund in that tax year: (a) income-yielding real estate and income from the sale of construction rights related to the income-yielding real estate ; (b) income from traded securities, state bonds and deposits.

Prohibited income, which is not distributed, is subject to 60% tax. Distribution of the prohibited income in later years will be consider as dividend distribution and is subject to 20%/25% withholding tax. No credit will be granted to the shareholders for the REIT taxation.

The REIT must submit an annual tax return which includes an accountant affirmation that the company has met all the conditions of a REIT.

Capital Gains
Distributed capital gains are not subject to taxation. The REIT must distribute 100% of its capital gain income.

Foreign taxes
Foreign taxes paid by the REIT will be deducted from the foreign taxable income which was subject to the foreign taxes. Furthermore, no foreign tax credit will be granted to the REIT or to the REIT's shareholders.

Accounting Rules
There are no special accounting rules for REIT. Listed REIT must follow the IFRS rules, as any other listed company.

3.2 Transition regulations

Conversion into REIT status
It is not possible.

3.3 Registration duties

Registration duties
Under certain conditions, Reduced real estate 'purchase tax'.

If a REIT acquired real estate from a company against an allocation of shares in the REIT, then the REIT shall pay a reduced 'purchase tax' (a special tax levied upon the acquisition of real estate) at the rate of 0.5%, on condition that the acquisition was made no later than 12 months after the date on which it became a REIT and before its shares were listed for trading on an exchange, and that the director of the Israeli tax authority approved the real estate sale in advance.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Corporate tax is 24% in 2011. - Corporate capital gains tax is 24% in2011.	- Individual tax rate is 45% in 2011. - Individual capital gains tax is 20%.	In principle, no final withholding tax.

Corporate shareholder
The REIT income is subject to corporate tax. The corporate tax rate in 2011 is 24%. The corporate tax rate will be reduced gradually to 18% in 2016.

Individual shareholder
The REIT income is subject to individual tax. The maximum individual tax rate in 2011 is 45%. The individual tax rate will be gradually reduced to 39% in 2016.

Withholding tax
Upon distributions, the REIT must withhold the tax that the shareholder would have paid had their investment been directly in the real estate. The individual or corporate tax rates would be based on ordinary income. For example, the withholding tax would be 24% on corporate capital gains or ordinary business income based on the corporate tax rate.

The withholding is not the final obligation – the shareholder must submit an annually tax return which reflects his real taxable income (including losses), credit will be granted for the withholding tax that was made by the REIT.

Distribution of prohibited income will be subject to 70% withholding tax. Distribution of the prohibited income in later years will be considered as dividend distribution and will be subject to 20%/25% withholding tax.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Withholding tax subject to tax rates applicable for Israeli companies. - 'Prohibited income' which is not distributed subject to 60% tax.	- Withholding tax subject to tax rates applicable for Israeli individual. - 'Prohibited income' which is not distributed subject to 60% tax.	- Final withholding tax. - Treaty relief available to distributions of 'Prohibited income' in later years.

Corporate shareholder

Distributions of current income and capital gains are subject to a withholding tax at the corporate tax rates applicable to Israeli investors. Treaty country resident pension funds and mutual funds are exempt from the withholding tax to the extent that the profits are exempt in their country of residence.

Individual shareholder

Distributions of current income and capital gains are subject to a withholding tax at the individual income tax rates applicable to Israeli investors.

Withholding tax

Treaty relief may be granted for distribution of the prohibited income in later years which are considered as dividend distribution.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Taxed under normal Israeli tax rules.	- Taxed at corporate tax rate of 24% in 2011 if REIT is a flow-through entity. - Dividend is subject to 20%/25% tax if the REIT is not a flow-through entity.	- Taxed at 45% in 2011 if REIT is a flow-through entity. - Dividend income will be subject to 20/25% tax if the REIT is not a flow-through entity.

Foreign REIT

A foreign REIT will be taxable under normal Israeli tax rules, based on its legal character (Corporation, Fund, Partnership etc.).

Corporate shareholders

A corporate shareholder in a foreign REIT, which derived taxable income from foreign sources should be subject to corporate income tax in the rate of 24% in 2011 as long as the REIT will be consider as flow-through entity for Israeli tax purposes (regardless of its election under foreign country rules).

Dividend income should be subject to 20%/25% tax. If the foreign REIT is not a flow-through, a tax credit will be allowed.

Individual shareholder

An individual shareholder in a foreign REIT, which derives taxable income from foreign sources, will be subject to individual income tax in the rate of 45% in 2011, as long as the REIT is considered as flow-through entity. ■

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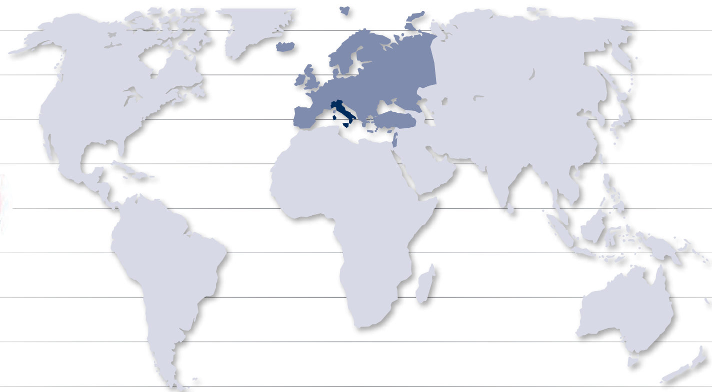
(SIIQ)

Global REIT Survey 2011

September



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European Public Real Estate Association

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1 General introduction

	Enacted year	Citation	REIT type
SIIQ	2007	Italian Real Estate Investing Corporations with listed Shares (SIIQ).	Corporate type.

In December 2006, a new real estate investment regime was implemented in the Italian legislation. The regime, applicable to the *Società d'Investimento Immobiliare Quotate* 'SIIQ', is effective as of July 01, 2007. The new SIIQ regime is supplementary to the pre-existing real estate investment fund regime ('REIF'). The SIIQ allows investors to have greater influence in the effective management of the companies, especially in terms of investments and governance. According to the pre-existing REIF, investors were excluded from the decision making that concerned the investment fund.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Italy	1	27,6	0,4	0,1%

Top REIT

Company Name	Market cap (€m)	Sector type
Immobiliare Grande Distribuzione	438	Office, Retail

2 Requirements

2.1 Formalities / procedure

Key requirements
- The election form must be filed before the end of the fiscal year preceding the one in which it is intended to take effect. - The option must be jointly exercised by all the companies that elected the SIIQ fiscal unit regime.

The election for the SIIQ regime must be made thought the electronic filing of the specific authorised form published by the Italian Revenue. The electronic filing should be made before the fiscal year in which the option will be effective. It is not necessary that all the mandatory requirements for the adoption of the SIIQ are complied with at the date of the filing, but they must be met at the beginning of the first fiscal year in which the option will be effective.

If any of the formal requirements to benefit from the regime is no longer complied with, the taxpayer must inform the Revenue office by filing the specific form within 30 days of the relevant change. This communication will imply the exiting from the SIIQ regime.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Joint stock company	EUR 40 million

Legal form

The joint stock corporation (*Società per Azioni*) is the only legal form which can apply for SIIQ status. The company's name must include the words *"Società d'Investimento Immobiliare Quotata"* or 'SIIQ'. According to the joint stock corporation qualification, SIIQs are subject to the regulations of the Italian Commercial Code.

On November 25, 2009 legislation was amended by article 12 of Law Decree no 135 of 2009. Under the new rule the Italian permanent establishment of a foreign company established in the EU or EEA States, may elect for the Italian SIIQ regime, provided that they are established in a country listed under article 168-bis of Italian Corporate Income Tax Code (i.e. white list countries).

Minimum share capital

The minimum capital required to constitute a joint stock corporation is currently EUR 120,000. However, only corporations which have at least a EUR 40 million capital share can be admitted to the quotation into the Italian stock exchange official market. It should be noted that certain exceptions are applicable in particular circumstances.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory	Foreign Shareholders Restrictions
- At least 35% of the shares must be 'widely held'. - A single shareholder is not allowed to own more than 51% of the voting rights.	Yes	No specific foreign shareholders restriction has been enacted.

Shareholder requirements

At least 35% of the SIIQ shares must be widely held. This means that the shares must be owned by shareholders which individually - directly or indirectly - hold no more than 2% of both voting and dividend rights. It is worth noting that the 2% threshold is only necessary for access to the SIIQ regime, but it does not affect the validity of the SIIQ regime once it has started. In addition, a single shareholder may not hold, directly or indirectly, over 51% of the voting and dividend rights.

Listing requirements

SIIQ shares must be listed in the Italian stock exchange market *(Borsa Italiana)*, or in the equivalent exchange markets of the EU and EFTA countries, provided that a sufficient exchange of information with the Italian tax authorities is allowed.

2.4 Asset level / activity test

Restrictions on activities / investments
- 80% real estate asset requirement. - 80% real estate income requirement.

At least 80% of the SIIQ's assets must consist of real properties and at least 80% of its income must result from rental and leasing activities of real property. Financial leased assets are included in the 80% asset ratio.

SIIQs are allowed to invest in other Italian listed or unlisted corporations as long as the above-mentioned assets and activity test criteria are met. The companies must also apply for the REIT regime. A SIIQ, or a multiple SIIQs, must hold at least 95% of the shares of an unlisted corporation in order to allow the unlisted corporation to qualify for the REIT regime (the unlisted corporation should, in any case, meet the minimum assets and income requirements to be included into multiple SIIQs regime). The shared real estate asset values of the SIIQs can be combined to meet the 80% real estate asset requirement.

There are no specific restrictions regarding the activities that may be performed by the SIIQ. However, only the income deriving from rental and leasing activities would be exempt of taxation. SIIQ entities benefit from a favourable 'flow-through' tax treatment (20% or 15% substitutive taxation when distributed). Income derived from other activities, including income from trading real property assets, is subject to ordinary taxes.

Development income would not be eligible for the tax exemption. This also applies to investments in foreign assets.

2.5 Leverage

Leverage
The leverage cannot exceed the ratio resulting from company by-laws.

The company by-laws shall mandatory include the maximum leverage ratio allowed. The provision is aimed at protecting SIIQ's investors thought the effective controls of National Security and Exchange Commission (CONSOB) and of Bank of Italy.

In principle, SIIQs are subject to the ordinary income tax provisions limiting the deduction of interest expenses to an amount equal to interest revenues plus 30% of adjusted EBITDA. This provision may not apply to mortgage secured financing facilities under certain conditions which should verified case by case. In addition, aforesaid limitation would only apply to the portion of SIIQ income which is not exempted from corporate income tax (ie, income not deriving from rental or leasing activities – see under par. 3.1, below). In fact, income deriving from rental or leasing activities would be exempt from income tax. Accordingly, it might be considered that interest limitation provisions would not significantly affect SIIQ tax burden.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
85% derived from real estate rental or leasing.	Capital gains distribution requirements not yet implemented.	Annually.

Operative income
SIIQs are obliged to distribute at least 85% of their income deriving from rental or leasing of real estate. SIIQs are also obliged to distribute dividend income received from other SIIQs or under a multi-SIIQ regime.

Capital gains
No SIIQ capital gains distribution requirement has been implemented.

2.7 Sanctions

Penalties / loss of status rules.
Termination of tax benefits.

There are no specific sanctions concerning the loss of SIIQ status. The only consequence deriving from a qualifying requirement violation consists of the termination of the SIIQ tax benefits from the same year in which the qualification requirement was violated.

The SIIQ can lose its status if it does not distribute at least 85% of the total net profit, if it fails to meet the abovementioned shareholder requirements, or if it does not meet the asset requirement for two consecutive years.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Eligible income is tax-exempt.	Ordinary corporate taxation.	N/A

Current income
The SIIQ income deriving from rental or leasing activities is not subject to corporate and local income taxes. The tax exemption applies as of the beginning of the business year in which the SIIQ regime was elected. The tax exemption also applies to the rental income of SIIQ subsidiaries (if they opted for the SIIQ regime jointly with the parent SIIQ). In this case, the subsidiary must also satisfy the SIIQ requirement (with the sole exception of the listing condition). More than a crystallised exemption, the income deriving from the eligible activity would benefit of a flow-through treatment, In fact they will be taxed only when distributed by applying a withholding tax at rate of 20% on the correspondent taxable base of the dividend distribution.

Income deriving from activities other than real property rental or leasing are subject to ordinary corporate and local tax provisions.

Capital gains
Capital gains are fully taxable according to the ordinary capital gain provision. However the entry tax would mitigate the incoming capital gains.

Other taxes
Excluding income taxes, rental income and other taxes will be ordinarily levied.

Withholding tax
No withholding tax is levied on dividends received by the SIIQ.

Accounting Rules
Since SIIQ´s are Italian public listed companies, they must comply with IFRS standards. In addition, SIIQ shell set-up two different sets of accounts with the purpose to distinguish the net profits deriving from the 'exempted' activity (i.e. the activities which can benefit from the tax flow-through treatment) from the rest of the businesses additionally carried on, if any.

3.2 Transition regulations

Conversion into REIT status
- 20% substitute tax on real property contributed to SIIQ. - 20% substitute tax on conversion 'entry tax'.

Real property contributed to a SIIQ (in exchange for shares) will be subject to a 20% substitute tax on realized gains, provided that the SIIQ will keep the acquired assets for a minimum three-year period.

Companies that choose to convert to SIIQs will benefit from the opportunity of increasing their real estate asset's tax value (effective as of the fourth period following the SIIQ election). The increase in value would be subject to a favorable 20% substitute tax payable in five annual equal installments. If the assets were to be sold before the date of the step-up re-evaluation, the capital gain would be recapped at the ordinary tax rate (i.e. 27.5% Corporate Income Tax and ordinary 3.9% local tax). The local tax rates vary on a regional basis between 2.9% to 4.9%. Thus, applying for the SIIQ regime offers the opportunity of reducing the tax burden on latent capital gains.

3.3 Registration duties

Registration duties
- Commercial buildings: subject to a 20% VAT and to 2% transfer taxes. - Residential buildings: subject to 10% transfer taxes with some exceptions.

Indirect taxes are applied to the transfers of real estate property to a SIIQ as follows:

- Commercial buildings (*i.e.*, buildings with certain features) are subject to VAT at 20% ordinary rate. In addition, 1.5% mortgage tax and 0.5% cadastral tax are due.
- Residential buildings are exempt from VAT; registration, mortgage and cadastral tax are applicable at 7%, 2% and 1% rates, respectively. Said taxes would apply at the lump sum of Euro 168 each under certain conditions in case the residential buildings are transferred by the companies which built them or carried out some restructuring works on them. In this case, VAT would in principle apply at 10% rate.

The most favorable treatment occurs in case more than one real estate property is contributed to the SIIQ. In fact, if the majority of the properties have an existing rental or lease agreement, the transfer of all the assets involved would be subject to registration, mortgage and cadastral taxes at the fixed amount of EUR 168 each; VAT would not apply.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Fully taxable.	- A final withholding tax is levied on SIIQ exempted income. - Dividends paid-out of the non-exempted income will be subject to ordinary dividend taxation rules. - Possible taxation of capital gains.	- 20% withholding tax of the distribution of exempted SIIQ income. - Corporate and business shareholders can credit the withheld taxes.

Corporate shareholder
Corporate shareholder dividends and capital gains are not tax-exempt. Dividend income and capital gains resulting from the disposal of SIIQ shares are fully subject to corporate and trade income taxes at regular tax rates.

Individual shareholder
Dividends paid-out of non-exempted income are subject to the ordinary applicable tax regime. In particular, a 12.5% substitute tax applies in case of non affiliated shareholdings, and dividends collected on affiliated shareholdings would be subject to personal income tax at progressive rates on the limited amount of 49.72% of such dividends (*ie*, dividends would benefit from a 50.28% exemption for purposes of the ordinarily applicable personal income tax).

Dividends deriving from exempted income are subject to a final 20% withholding tax when the distribution occurs.

In case the individual is holding the SIIQ share in the course of a business activity, dividends are fully taxable in the hands of the shareholders at progressive rates, and the 20% tax withheld at distribution may be credited against individual income taxes.

Capital gains realized on the disposal of SIIQ shares by individuals not engaged in any business activity are fully subject to personal income tax at progressive rates in case of affiliated shareholdings, and to a 12.5% substitute tax in case of non affiliated shareholdings.

Capital gains realized on the disposal of SIIQ shares by individuals engaged in a business activity are fully subject to personal income tax at progressive rates with a limited relief for the taxes already paid by the SIIQ on its income.

Other taxes
No other taxes are levied.

Withholding tax
A 20% withholding tax will apply on dividends paid out of the tax-exempt income. The withholding tax can be reduced to a 15% rate under certain circumstances in case of dividends originating from residential building leases. Corporate and business shareholders can credit the withheld taxes. The withholding tax will be levied by the intermediary that maintains the SIIQ shares as an Italian investing agent.

4.2 Foreign shareholders

Corporate shareholder	Individual shareholder	Withholding tax
Final withholding tax.	Final withholding tax.	- Treaty relief benefits not yet verified. - Parent Subsidiary Directive not applicable.

Corporate shareholder

Dividends paid out of non-exempted income are subject to the ordinary tax regime that foresees a 27% withholding tax that may be reduced under certain circumstances. Said withholding tax rate may be reduced to a 1.375% rate where the dividends are paid to companies, resident in the EU or in an EFTA country, provided that a sufficient exchange of information with Italian Tax Authority exists.

Dividends deriving from exempted distributed earnings will be subject to a final 20% withholding tax when distributed. The withholding tax is reduced to a 15% rate in case the dividends derive from certain residential building leases income.

Capital gains deriving from the sale of shareholdings in SIIQs are subject to the tax regime ordinarily applicable to Italian shares (including certain domestic and treaty exemptions available to non-residents). Double treaty protection will apply in most circumstances.

Individual shareholder

Dividends paid out of non-exempted income are subject to the ordinary applicable tax regime which provides for a 27% withholding tax that may be reduced under certain circumstances. Dividends deriving from exempted distributed earnings will be subject to a final 20% withholding tax when distributed. The withholding tax can be reduced to a 15% rate if the dividends derive from certain residential building leases.

Withholding Tax

Withholding taxes on dividends paid to foreign (non-resident) shareholders has the nature of a final tax, provided that the shares are not assets of a permanent establishment in Italy.

It is debated if foreign shareholders can claim the tax treaty relief on the dividends derived by exempted income of SIIQ. This would depend, among other circumstances, on whether the SIIQ may qualify as an eligible entity under the specific tax treaty provision. Moreover clearance may be obtained by submitting a specific ruling on this point.

The applicability of the Parent-Subsidiary Directive under the SIIQ regime is not allowed for the portion referring to exempt dividends, due to the circumstance that SIIQ opted for an exemption from corporate income tax (see the exclusion provided for by Article 2 of same EU Directive). The Parent-Subsidiary Directive is applicable to the portion of non-exempt dividends.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
It follows the ordinary source taxation rule at rate of 27.5%.	1.375% final taxation.	12.5% final tax or 50.28% exemption depending on the number of the shares held.

Foreign REIT

It follows the ordinary source income taxation rule applicable to non-residents. As a consequence, any income deriving from immovable property situated in Italy will be subject to the general 27.5% tax rate applicable to non-resident entities.

Corporate shareholder

Domestic corporate shareholder receiving dividend income from certain foreign REIT may benefit of a 95% exemption. The remaining 5% will be taxed at the ordinary 27.5% corporate tax rate. Thus, domestic taxation of dividends received by a foreign REIT will be equal to 1.375%. The only exception concerns REIT that will be deemed resident in a black-listed country. In this case, the 95% exemption would no longer apply and the full amount of the dividends distributed will be subject to a 27.5% ordinary corporate tax rate.

Individual shareholder

Domestic shareholders receiving dividends by foreign REIT will pay tax as follows:

- In case of non-affiliated shareholders, dividends received will be subject to a final 12.5% tax levied on the total amount. In this scenario, the withholding tax levied at source is not creditable under domestic taxation;
- In case of affiliated shareholder, dividends received will be subject to ordinary personal income tax at progressive rates on 49.72% of their amount. In this case foreign withholding tax may be credited adequately to the above-mentioned taxable percentage. ■

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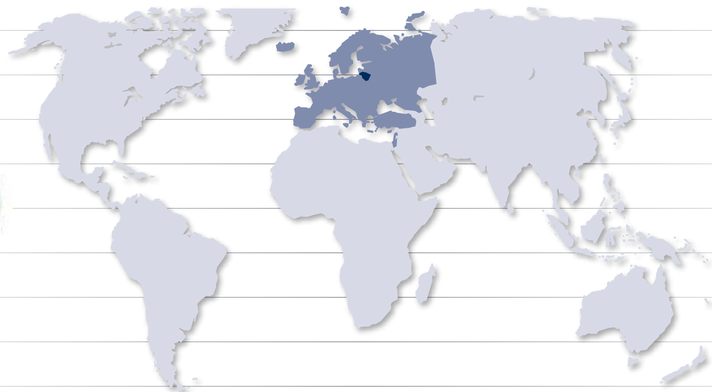

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Caveat: All information in this paper is based on our research as at June 2011. No reliance should be placed on nor should decisions be taken on the basis of the contents of this brochure. Any party or individual involved in the preparation of this brochure shall bear no responsibility for the consequences of any action taken on the basis of information contained herein, including errors and omissions. Throughout this survey, all REIT data provided in the "Sector summary (end of July 2011)" have been kindly provided by Macquarie Global Property Securities Analytics.

For any questions or feedback related to this survey, please contact:

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1 General introduction / history / REIT type

	Enacted year	Citation	REIT type	REIT market
REIT	2008	Law on Collective Investment Undertakings.	Investment Company / Investment Fund.	2 existing funds.

On the November 11, 2007 the Lithuanian Parliament amended the Law on Collective Investment Undertakings, which came into force on the March 01, 2008. The law regulates management activities of collective investment undertakings and therefore the activities of Real Estate Investment Trusts (the REIT).

Since the Law on Collective Investment Undertakings does not provide for a new form of entity, REIT is incorporated as a joint stock company under the Lithuanian company law or an investment fund, managed by a management company.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Special collective investment undertaking status required. - Licence from the Lithuanian Securities Commission.

In order to become eligible to the regime companies are required to have special collective investment undertaking status, which could be either (1) variable capital (open-ended) investment company / fund or (2) closed-ended investment company / fund.

Variable capital (open-ended) investment company / fund is defined as an entity whose shareholders have the right to request at any time that their shares be redeemed and the amount of whose capital varies depending on the issue and redemption of shares.

Closed-ended investment company / fund is defined as an entity with a fixed number of shares outstanding that are re-purchased after the end of its activity or any other event indicated in the articles of incorporation and are not redeemed upon the request of the investor.

In order to have the status of the REIT, the investment company or fund's management company has to obtain a license from the Lithuanian Securities Commission. The application for the license shall be accompanied by the information about the company, its shareholders, members of the management bodies, the company's program of their development and activities, initial capital and other documents, information and explanations specified in the licensing regulations approved by the Securities Commission.

The bylaws of the REIT must contain a number of specific provisions that are verified by the Securities Commission during the procedure of granting a license for the activities.

The Securities Commission shall notify the applicant of its consent or refusal to grant a licence within 6 months from the filing of all documents, information and explanations. In case the applicant company is related to a management company, an intermediary of public trading in securities, a credit institution or an insurance company licensed in another European Union member state a license may be granted only upon asking for the opinion of the foreign supervisory authority.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Joint stock company or investment fund managed by a management company.	LTL 150,000 (approx. EUR 43,500). LTL 431,600 (EUR 125,000) for the management company.

Legal form

REIT should have a form of either (1) a joint stock company incorporated under the Lithuanian law or (2) an investment fund managed by a management company. Additional statutory and management seat requirements apply.

Minimum share capital

The share capital (monetary contributions of founders) of a REIT as a joint stock company should be not less than LTL 150,000 (approx. EUR 43,500). If REIT has a legal form of investment fund, the requirements of minimum share capital are applied to the management company. The share capital of the management company managing an investment fund should not be less than LTL 431,600 (EUR 125,000).

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
No requirements.	No

Shareholder requirements

There are no specific shareholder conditions that have to be fulfilled to become eligible for the REIT status.

However, since the REIT status is not harmonised with the Council Directive 85/611/EEC as of December 20, 1985, restrictions may be applied for a distribution of REIT's units or shares in another Member State of the EU.

Listing requirements

Listing is not a mandatory requirement to obtain the REIT status. Private REITs are allowed.

2.4 Asset level / activity test

Restrictions on activities / investments
- No more than 20% of its net assets in securities of other companies; - No more than 30% of its net assets in a separate real estate asset or real estate company; - No more than 20% of its net assets in real estate under development; - No more than 40% of its net assets in a single real estate property and any assets required for its maintenance; - No more than 30% of its net assets in securities issued by a single real estate company including liabilities arising from the transactions with real estate company involving derivatives; - No more that 30% of its net assets in the securities in a single real estate company and in the assets that such real estate company has invested in. - Further restrictions apply. - May invest in real estate abroad.

The REIT is allowed to invest into the following real estate assets: land, buildings and (or) premises constituting separate real estate objects, registered in the name of the investment company, and other tangible assets that are necessary for the operation of the real estate.

Following the provisions of the Law on Collective Investment Undertakings, the assets of the REIT must consist from at least 4 separate real estate objects. For the purposes of the diversification of assets, the REIT is allowed to invest:

- no more than 20% of its net assets in securities of other companies or other liquid assets;
- no more than 30% of its net assets in a separate real estate asset or real estate company;
- no more than 20% of its net assets in real estate under development;
- no more than 40% of its net assets in a single real estate property and any assets required for its maintenance;
- no more than 30% of its net assets in securities issued by a single real estate company including liabilities arising from the transactions with real estate company involving derivatives;
- no more that 30% of its net assets in the securities in a single real estate company and in the assets that such real estate company has invested in.

The investments are not permitted into:

- real estate assets that will be purchased under joint ownership when shares of ownership are not established;
- real estate assets whose ownership is restricted and this may result in the loss of the ownership;
- real estate assets not registered in the real estate or any other comparable registry.

The investment portfolio of a newly incorporated REIT is allowed, for four years from the approval of its instruments of incorporation, not to comply with the diversification requirements mentioned above. However, in all cases, this should not waive the obligation of a management company and a REIT to invest the assets of a REIT in compliance with the requirements set in the Law on Collective Investment Undertakings.

Restrictions apply regarding investment in the securities of foreign companies incorporated in non-EU or non-EEA member states.

The REIT is allowed to invest into real estate objects in development, if their development is to be finished during an acceptable timeframe.

The REIT is allowed to invest into:

- securities of companies whose primary business activity is purchase, reconstruction, lease, trade or development of real estate;
- shares or units of other REITs registered in other EU member states;
- other securities (including shares), money market instruments dealt on regulated markets.

The net assets of the investment fund after a 6 month period from the beginning of its activities should reach a level of 1,000,000 LTL (approx. EUR 289,620). The net assets of the REIT as a joint stock company should reach a level of 2,000,000 LTL (approx. EUR 579,240) within 12 months from the receipt of the licence from the Lithuanian Securities Commission.

Capital adequacy requirements are stipulated for the management companies. The capital of the management company cannot be less than the initial share capital of 125,000 EUR. If the value of assets managed by the management company exceeds 250,000,000 EUR, management company is obliged to increase the capital by not less than 0.02% of the asset value in excess of EUR 250 million. However, once the capital reaches EUR 10 million, no further increase is required.

2.5 Leverage

Leverage
Limited to 75% of the net assets.

Leverage is limited to 75% of the net assets of the REIT. Net assets shall mean the difference between the value of the assets owned by an REIT and the short-term and long-term financial liabilities of the REIT.

2.6 Profit distribution obligations

Operating income	Capital gains	Timing
No requirement.	No requirement.	No requirement.

There is no legal requirement for the profit distribution. The procedure of payment of dividends to the shareholders (periodicity, share of income allocated for dividends) must be defined in the bylaws or rules of investment of the REIT.

2.7 Sanctions

Penalties / loss of status rules
- No tax penalties - Administrative penalties - Revoking of the license

There are no tax penalties. However the Securities Commission shall have the right to apply the following measures to an REIT:

- warn about the shortcomings and set a term for their elimination;
- impose administrative penalties (up to EUR 57,900);
- temporarily suspend the licence for the provision of one or more services;
- revoke the licence for the provision of one or more services;
- oblige the management company or investment company to change the manager;
- suspend the distribution or redemption of shares;
- prohibit, for periods not longer than 3 months, to buy securities or money market instruments;
- appoint an interim representative of the Securities Commission for the supervision of the activity.

3 Tax treatment at the level of REIT

3.1 Corporate tax/ withholding tax

Current income	Capital gains	Withholding tax
- Investment income (e.g. rental income, capital gains upon disposal of property and shares) is tax-exempt. - Dividend income or any other income from distributed profits and other business income subject to 15% corporate income tax. - Participation exemption might apply.	Tax-exempt.	Not creditable.

Current income

According to the provisions of the Law on Corporate Income Tax, investment income of the REIT with a status of a company (rental income, capital gains upon disposal of shares) are treated as not taxable income, except for dividend income or any other income from distributed profits. Capital gains upon disposal of real estate are also tax-exempt. Dividends received by the REIT are subject to 15% corporate income tax and may be reduced to 0% in case of qualified participation (not less than 10% of the shares for not less than 12 consecutive months, including the month dividends are paid) provided the dividends are distributed from taxed profit. Other types of business income (if any) are subject to 15% corporate income tax.

Profit distributed by the REIT with a status of a company to the individual shareholder and not taxed at the level of the REIT is subject to 15% corporate income tax at the moment of the distribution.

The REIT with a status of the investment fund is not a taxable person. Therefore the income of such REIT is not taxable.

Capital gains

The treatment is the same as for current income.

Withholding tax

Dividend distributed by the REIT to corporate recipients is taxable at 15% withholding tax. However, the tax rate can be reduced by the applicable treaties on avoidance of double taxation.

Accounting rules

Financial statements of the REIT should be drawn up in compliance with the Lithuanian GAAP which is very close to IFRS. However, REITs whose securities are traded on regulated markets should draw up financial statements according to IFRS. Lithuanian laws make a distinction between group and single financial statements; therefore, single statements must always be prepared whereas those of the group only in case of mandatory consolidation.

The REIT whose securities are not traded on regulated markets has an option between Lithuanian GAAP and IFRS.

For the purposes of corporate income tax calculation financial result of the REIT (calculated according to IFRS or Lithuanian GAAP) would be decreased by non-taxable income, i.e., investment income, and increased by non-deductible expenses, i.e., expenses related to the non-taxable income etc.

3.2 Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
- Land registration fee and real estate registration fee apply. - Notary fees are 0.45% of the value of property capped at approx. EUR 5,800.

Land ownership registration fee and real estate ownership registration fee applies. It is calculated based on the value of the property. For example, when registering a building valued at LTL 1,000,000 (EUR 289,620), the fee is LTL 555 (approx. EUR 160).

Notary fees are 0.45% of the value of the property but not less than LTL 100 (approx. EUR 29) and not more than LTL 20,000 (approx. EUR 5,800).

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- In principle final withholding tax of 15%. - Generally, capital gains are subject to 15% corporate income tax.	- Final withholding tax of 20%. - Generally, capital gains are subject to 15% income tax.	Creditable.

Corporate shareholder

Dividends distributed to domestic corporate shareholders are subject to the final withholding tax at a rate of 15%.

The amount of corporate income tax withheld and paid to the budget by the REIT with a status of a company may be set off against the amount of corporate income tax to be paid by the corporate shareholder.

Capital gains realised on the sale of the REIT's shares are generally subject to 15% corporate income tax rate.

Return of capital distribution due to the redemption of shares shall be treated as capital gains from share sale and taxed accordingly.

Individual shareholder

Dividends distributed to domestic individual shareholders are subject to the final withholding tax at a rate of 20%.

If the REIT with a status of the investment fund distributes dividend to the individual shareholder from the profit which was tax exempt, the distributed dividend will be subject to 20% resident's income tax and 15% corporate income tax.

Capital gains realised by an individual resident shareholder on the sale of the REIT shares are subject to 15% residents' income tax. However, capital gains are exempt from tax when the shares are sold after being held for more than 366 days and the shareholder has not controlled more than 10% of the share capital of the company during the previous three years.

Return of capital distribution due to the redemption of shares shall be treated as capital gains from share sale and taxed accordingly. However, no exemptions apply.

Withholding tax

The obligation to calculate and pay the tax falls on the REIT. The tax must be paid until the 10th day of the month that follows the dividend payment. It is possible to credit withholding tax against the taxes payable on the same income, however, the credit should not exceed the tax due.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Final withholding tax of 15% on dividends. - Capital gains are tax-exempt.	- Final withholding tax of 20% on dividends. - Capital gains are tax-exempt.	- Local participation privilege available. - Treaty benefits available. - Parent Subsidiary Directive applicable.

Corporate shareholder
Dividends paid to foreign shareholders are subject to 15% withholding tax. Capital gains are not subject to corporate income tax in Lithuania.

Return of capital distribution is not subject to profit tax in Lithuania.

Individual shareholder
Dividends paid to foreign shareholders are subject to 20% withholding tax.

Capital gains are not subject to the resident's income tax in Lithuania.

Return of capital distribution is not subject to the resident's income tax in Lithuania.

Withholding tax
Dividends distributed to foreign shareholders are subject to the 15% withholding tax at source.

A non-resident shareholder may be entitled to a withholding tax reduction under a Treaty on Avoidance of Double Taxation.

EU-Parent Subsidiary Directive is applicable.

5 Tax Treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Rental income shall be subject to 15% withholding tax.	- Dividends are subject to 15% profit tax. - Generally, capital gains are subject to 15% profit tax.	- Residents income tax of 20% on dividends. - Generally, capital gains are subject to 15% income tax.

Foreign REIT
As it was indicated investment income is treated as non-taxable in the hands of the REIT, provided that its activity is regulated by the Lithuanian Law on Collective Investment Undertakings. Since it is not the case for a foreign REIT, its local rental income shall be subject to 15% withholding tax at source.

Corporate shareholder
Dividends received by domestic corporate shareholders from foreign REITs are subject to 15% profit tax.

Individual shareholder
Dividends received by domestic individual shareholders from foreign REITs are subject to 20% Lithuanian residents' income tax. ■

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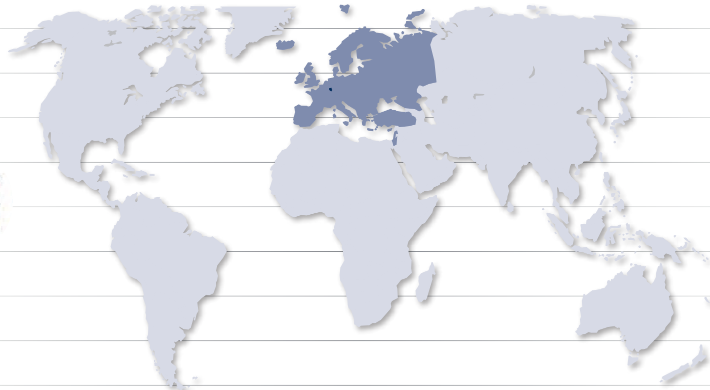

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- Requirements
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For any questions or feedback related to this survey, please contact:

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EPRA REPORTING

European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type
SIF	2007	Law relating to specialised investment funds	- Contractual Type - Corporate Type

Although Luxembourg has not enacted a REIT regime *per se*, the specialised investment fund (SIF) regime enacted on the February 13, 2007 has developed into a specialised property fund regime in a little over a year. Although not outwardly labelled as a REIT regime, parliamentary history confirms its real estate fund purpose.

A SIF shall be any undertaking for collective investment situated in Luxembourg (i) the exclusive object of which is the collective investment of its funds in assets in order to spread the investment risks and to ensure for the investors the benefit of the results of the management of its assets, and (ii) the securities of which are reserved to one or several well-informed investors, and (iii) the constitutive documents or offering documents of which provide that it is subject to the provisions of the law of February 13, 2007, relating to specialised investment funds (the SIF Law). The SIF Law replaces the law of July 19, 1991 relating to undertakings for collective investment, the securities of which are not intended to be placed with the public.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Authorisation and ongoing supervision by the Luxembourg supervisory authority - Requirement for a depositary

Every SIF must be authorised by the supervisory authority of the financial sector, the *Commission de Surveillance du Secteur Financier* (CSSF). The SIF's constitutive documents (i.e. the Articles of Association for the corporate form of SIF, or the management regulations for the contractual SIF, together with an issuing document) must be submitted to the CSSF for approval. The SIF may further be formed and launched prior to this CSSF application, provided the official application request is lodged within 30 days of the formation of the SIF. In practice, most initiators will seek prior CSSF registration, which in most cases may be obtained within two to four weeks. The application process is lighter than for retail funds, with the possibility of a fast track approval. The CSSF will review the SIF's constitutive documents, as well as screen and approve the directors/managers, the central administration agent, custodian bank and auditor.

Upon authorisation, each SIF is entered on the official SIF list maintained by the CSSF. Registration on this list signals that the SIF is subject to ongoing prudential supervision by the CSSF.

All Luxembourg undertakings for collective investment must entrust the custody of their assets to a depositary bank that is either a credit institution having its registered office in Luxembourg, or the Luxembourg branch of a credit institution having its registered office in another member state of the European Union. The role of the custodian bank does, however, amounts less to a safeguarding mission than a monitoring function; whereby the custodian must at all times know how the assets of the SIF are invested and how these assets are available.

For property investments, the custodian bank will monitor the acquisition and disposition process of either the property or property rights directly in an asset transaction, or of the intermediate special purpose vehicle(s) if the property is held via special purpose vehicles.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital/Net Assets*
- Contractual form (FCP) - Corporate form (SICAV, SICAF)	- EUR 1.25 million* - EUR 1.25 million

Legal form

A Luxembourg specialised property fund may be organised under any of the following three categories:

i. Common Fund *(Fonds Commun de Placement* or FCP*):*
The contractual type fund is a co-ownership of assets with no legal personality, which is managed, on behalf of the joint owners, by a management company based in Luxembourg. An investor in an FCP receives, as a counterpart for its investment, units of the FCP, which may be issued in registered or in bearer form and which represent a portion of the net assets of the FCP. Unlike shares of a corporate type fund, units of an FCP do offer statutory 'shareholder' rights (unless expressly provided for in the management regulations of the FCP). Unit holders are only liable up to the amount contributed by them.

ii. Investment Company with Variable Capital *(société d'investissement à capital variable* - SICAV*):*
A SIF may be incorporated in the form of a public limited company (*société anonyme-SA*), a corporate partnership limited by shares (*société en commandite par actions-SCA*), a private limited liability company (*société à responsabilité limitée-Sarl*) or as a cooperative company organised as a public limited company (*société cooperative organisée sous forme de société anonyme-CoopSA*). The SICAV acronym only refers to the variable capital concept, whereby the variations in the capitalisation of the SIF are organised without any specific formal requirements.

iii. Specialised investment funds which are neither FCPs nor SICAVs
This third category is a residual category allowing the formation of a SIF under other legal forms or arrangements - such as a limited partnership (société en commandite simple), or any of the corporate forms mentioned under item (ii) though with a fixed capital (and then referred to as a SICAF), an association or even a fiduciary contract. Under this third category, all entities or arrangements will *inter alia* have to adopt the fixed capital concept. Though on the face of it this last category may offer less flexibility than the standard SICAV set-up, this is only partially true because the limited partnership (LP-SCS) form or fiduciary arrangements offer other structuring opportunities. The use of the limited partnership form may thus be particularly attractive when compared to the typical Anglo-Saxon limited partnership.

All of the above fund types may furthermore be organised as single funds or as umbrella (multi-compartment) funds. An umbrella fund (which merely exists through its compartments or sub-funds) is segregated into one or more compartments or sub-funds, each of which corresponds to a separate pool of assets and liabilities. Each compartment or sub-fund is linked to a specific pool of properties or property rights, which are ring-fenced from the properties or property rights in other compartments/sub-funds.

Although the umbrella fund constitutes a single legal entity (if a SICAV or SICAF) or a single contractual arrangement (if an FCP), unless otherwise provided for in the fund documentation, the assets of a compartment or sub-fund are exclusively available to satisfy the rights of investors and creditors existing in relation to that compartment or sub-fund only.

The umbrella structure and its terms must be detailed in the constitutive documents of the SIF. In addition to the umbrella structure, it is also possible to create various classes of units or shares in a SIF or within each compartment or sub-fund. Such classes of units or shares may differ, *inter alia*, as to their fee structure, distribution policy and type of target investors.

Minimum capitalisation

The minimum capitalisation for a specialised real estate fund organised under a corporate form is EUR 1,25 million. This minimum must be reached within 12 months from the authorisation of the SIF, and may be constituted by the share capital plus any issue premium paid. For contractual type specialised real estate funds, the same minimum capitalisation applies with respect to the net assets of the fund. In the case of an umbrella SIF, the capitalisation applies to the fund as a whole, not to the individual compartments/sub-funds.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
Well-informed investors (SIFs only)	No

Shareholder requirements

Units, shares and other securities issued by SIFs are reserved to 'well-informed' investors. 'Well-informed' investors are institutional investors, professional investors as well as any other investor that:

a. has declared in writing his adhesion to the status of well-informed investor, and
b. (i) invests a minimum of EUR 125,000 in the SIF, or
   (ii) has obtained a an assessment from a credit establishment as defined in directive 2006/48/CE, from an investment firm as defined in directive 2004/39/CE, or from a management company as defined in directive 2001/107/CE, certifying his expertise, his experience and his knowledge to appraise in an appropriate manner an investment in a SIF.

Listing requirements

There are no mandatory listing requirements to fulfil in order to achieve SIF eligibility.

2.4 Asset level / activity test

Restrictions on activities / investments
Principle of risk-spreading

A SIF may invest into any (transferable) real estate asset or right, and more particularly in (i) real estate (i.e. lands and buildings) registered in the name of the SIF, (ii) participations in real estate companies (including loans to such companies) the exclusive object and purpose of which are the acquisition, development and sale together with the letting and tenanting of real estate, and (iii) various long-term real estate related interests such as rights to ground rents, long-term leases and option rights over real estate investments.

By and large, a SIF may invest in any type of real estate assets and pursue any type of real estate investment strategy subject to compliance with the principle of risk spreading. Although the SIF Law does not provide for quantitative investment restrictions, the CSSF has issued further guidance in its Circular 07/309.

Since all investors in specialised real estate investment funds must be institutional, professional or other well-informed investors, they are deemed to have sufficient experience to judge themselves on the concept of risk-spreading and the information they need to form an investment decision. Those investors do not require the same level of protection as investors in retail funds.

The SIF Law requires that the offering document includes the information necessary for investors to be in a position to make a well-informed judgment on the investment proposed to them. The CSSF considers that the offering document must include quantifiable restrictions evidencing the fulfilment of the principle of risk-spreading.

In general, the CSSF considers that the risk-spreading principle is complied with if a SIF does not invest more than 30% of its assets or subscription commitments into (i) a single property or (ii) the same property right or (iii) the same issuer of property rights. Property whose economic viability is linked to another property is not considered a separate item of property for this purpose. However, this 30% rule does not apply during a start-up period; which in principle may not extend beyond four years after the closing date of the initial subscription period.

2.5 Leverage

Leverage
No quantitative restrictions

Though the SIF Law does not provide for quantitative borrowing restrictions, the CSSF requires a clear disclosure of the contemplated borrowing ratio in the offering document. The CSSF will typically review borrowing ratios in light of market trends and may object to those ratios which are clearly outside those trends.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
No obligation	No obligation	N/A

There are no profit distribution obligations or restrictions applicable to SIFs for as long as the minimum capitalisation referred to above (under question 2.2) is complied with. The net assets may thus not fall below 2/3 of the legal minimum of EUR 1.25 million.

2.7 Sanctions

Penalties / loss of status rules
Withdrawal from the official list. Dissolution and liquidation. Criminal penalties.

The non-compliance with the SIF Law, applicable CSSF Circulars and certain other rules or regulations, may result in the striking of the fund from the official SIF list by the CSSF, subsequently triggering a liquidation of the SIF. Criminal penalties may apply to those involved with the management or administration of a specialised real estate fund, although not to the fund itself.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Tax-exempt.	Tax-exempt.	Tax-exempt (except Savings Directive).

Current income, Capital gains and Withholding tax

Luxembourg specialised real estate funds are fully exempt from income, wealth and withholding tax on the profits derived from investments, whether such profits constitute current income or capital gains.

Other taxes

Annual subscription tax

Specialised real estate funds are subject to a 0.01% annual subscription tax (*taxe d'abonnement*), which is payable quarterly and is calculated on the aggregate net assets of the fund as valued on the last day of each quarter.

Capital duty

Capital duty has been abolished as of January 01, 2009. As such, no capital duty will be levied on the issuance of shares nor increase in capital. That said, a fixed registration duty of EUR 75 would be applicable on transactions involving Luxembourg entities (i.e. incorporation, amendments of by-laws and transfer of seat to Luxembourg).

Withholding tax

Dividend distributions made by a specialised real estate fund are not subject to dividend withholding tax. Under specific circumstances, income (dividends and gains realised upon redemption or sale) from a specialised real estate fund structured as an FCP may fall under the scope of the Luxembourg implementation of the EU Savings Directive and thus trigger either an exchange of information with the country of residence of the beneficiary or a taxation at source of 20% (35%, as from July 01, 2011) on the taxable interest income.

Real estate tax

Specialised real estate funds owning Luxembourg real property may be subject to certain real estate taxes and transfer taxes in Luxembourg.

VAT

Management services provided to a Luxembourg specialised real estate fund in principle are exempt from Luxembourg VAT.

Accounting rules

Specialised real estate funds may either apply Luxembourg generally applicable accounting standards or IFRS.

3.2 Transition regulations

Conversion into REIF (SIF) status
Taxation of underlying assets or properties.

The conversion may be a realisation event for tax purposes, and thus trigger the taxation of any underlying properties or assets. Each conversion thus requires a detailed analysis of the potential tax implications.

3.3 Registration duties

Registration duties
Luxembourg real estate transfer tax (Max. 10%).

Luxembourg specialised real estate funds are subject to registration duties such as real estate transfer tax (*droit de mutation à titre onéreux*) on real estate acquisitions and transfers located in Luxembourg (i.e. 7%/10% depending on the municipality and the type of real property). If real property is contributed to a fund in exchange for the issuance of shares, transfer taxes will in principle be replaced by the fixed registration duty of EUR 75.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Corporate income tax (max. 22.05%) combined with municipal tax (max combined rate of 28.80%). Net worth tax (0.5%).	Income tax (max. 40.56%).	N/A

Corporate shareholder

A corporate domestic shareholder will be fully subject to tax on any income derived from a Luxembourg specialised real estate fund in the form of a SICAV or SICAF. Therefore dividends, capital gains and return of capital received by such shareholder are fully subject to Luxembourg corporate income tax (max. 22.05%) and municipal business tax, which may lead to an aggregate tax burden of up to 28.80% (Luxembourg-City). Income received from a Luxembourg specialised real estate fund in the form of an FCP or SCS in principle is also taxable, but not to the extent the corporate shareholder could apply the participation exemption in relation to the fund's underlying investments, if applicable.

A corporate domestic shareholder will also be subject to net worth tax levied on its net assets at a rate of 0.5%.

Individual shareholder

Income and profit received by an individual domestic shareholder from a Luxembourg specialised real estate fund will be fully subject to Luxembourg tax, and borne by the recipient (max. 38.95%).

Interest paid by the fund to an individual domestic shareholder managing his or her own private wealth is subject to a final 10% withholding tax at the level of the fund, and is not included in the taxpayer's income tax return.

Capital gain on the disposal of shares of a Luxembourg specialised real estate fund earned by an individual domestic shareholder in the management of his or her own private wealth, is not subject to tax if the gain was realised at least six months after the acquisition of the shares, and provided that the investment in the fund does not represent a substantial (< 10%) shareholding in the fund.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
No taxation.	No Taxation.	N/A

Income derived by foreign shareholders who have neither a permanent establishment nor a permanent representative in Luxembourg to which or to whom the shares or units of the Luxembourg fund are attributable are not subject to taxes in Luxembourg.

Capital gain on the disposal of shares of a Luxembourg specialised real estate fund earned by a foreign shareholder is not subject to tax provided the shareholder does not hold a substantial participation and alienates such participation within six months. In case of disposal after six months or more, the disposal could be subject to tax in Luxembourg if the selling shareholder has been a Luxembourg resident taxpayer for more than 15 years and has become a non-Luxembourg taxpayer less than five years before the disposal takes place.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Net worth tax	Fully taxed	Fully taxed

5.1 Corporate shareholder

A corporate domestic shareholder will be fully subject to tax on any income derived from a foreign REIT, unless the foreign REIT would qualify under the Luxembourg participation exemption. Therefore dividends, capital gains and return of capital received by such shareholder may be fully subject to Luxembourg corporate income tax (max. 22.05%) and municipal business tax, which may lead to an aggregate tax burden of up to 28.80% (Luxembourg-City). Income received from a foreign REIT which is considered tax transparent from a Luxembourg tax perspective in principle is also taxable, but not to the extent the corporate shareholder could apply the participation exemption in relation to the fund's underlying investments.

The net worth tax (as referred to in par. 4.1) in principle also applies in relation to a foreign REIT.

Individual shareholder

Income and profit received by an individual domestic shareholder from a foreign REIT will be fully subject to Luxembourg tax in the hands of the recipient recipient (max. 40.56%). ■

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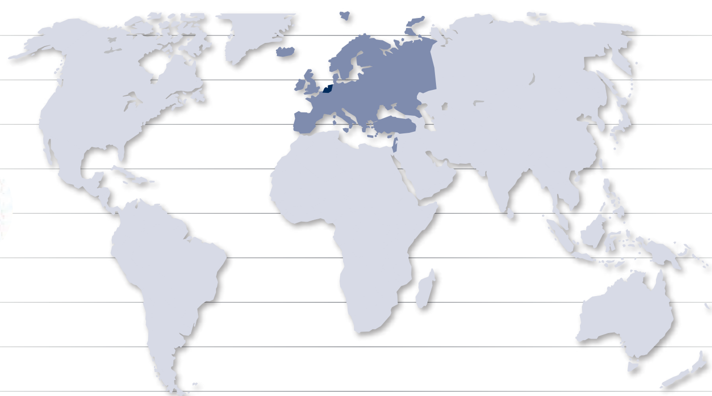

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- Tax treatment of foreign REIT and its domestic shareholder

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Caveat: All information in this paper is based on our research as at June 2010. No reliance should be placed on nor should decisions be taken on the basis of the contents of this brochure. Any party or individual involved in the preparation of this brochure shall bear no responsibility for the consequences of any action taken on the basis of information contained herein, including errors and omissions. Throughout this survey, all REIT data provided in the "Sector summary (end of July 2010)" have been kindly provided by Macquarie Global Property Securities Analytics.

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1 General introduction

	Enacted year	Citation	REIT type
FBI	1969	FBI (art. 28 CITA)	In principle corporate type (pure tax regime).

The Netherlands introduced the Fiscal Investment Institution regime (*fiscale beleggingsinstelling:* FBI) in 1969. An FBI is in principle subject to Dutch Corporate Income Tax, albeit at a rate of zero percent (0%) (a *de facto* full exemption). The FBI regime has been incorporated in the Dutch Corporate Income Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*: CITA) and should be considered a tax facility. It may also apply to other passive, portfolio investments than real estate.

In 2007, the FBI regime was amended to comply with EU law regulations. It has become possible for a foreign entity to apply for the regime. Further, certain restrictions which prohibited foreign shareholders to invest in an FBI have been abolished.

Sector summary (end of July 2011)

Listing Country	Number of -Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Netherlands	7	6,6	8,4	1,5%

Top five listed REITs

Company Name	Market cap (€m)	Sector type
Corio NV	3,929	Industrial, Office, Retail
Wereldhave NV	1,401	Industrial, Leisure, Office, Residential, Retail
Eurocommercial Properties NV	1,359	Retail
Vastned Retail NV	885	Retail
Nieuwe Steen Investments Funds NV	562	Industrial, Office, Residential, Retail

2 Requirements

2.1 Formalities / procedure

Key requirements
Application in the corporate income tax return.

In the Netherlands, an eligible investment company may elect to apply for the FBI regime by making the appropriate election in its corporate income tax return, which is filed after the end of the relevant tax year.

The FBI regime is a corporate income tax regime And its application is not contingent on the satisfaction of regulatory requirements for purposes of for instance the Financial Supervision Act (*Wet op het financieel toezicht:* WFT). However, less restrictive shareholder requirements apply if the FBI is under supervision by the Dutch Financial Market Authority (see below).

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
- Dutch private limited liability company (BV). - Dutch public limited liability company (NV). - Open-ended mutual investment fund (FGR). - Comparable foreign legal entity.	- BV: EUR 18,000 - NV: EUR 45,000 - FGR: None

Legal form
A Dutch public limited liability company (NV), a private limited liability company (BV), an open-ended mutual investment fund (*fonds voor gemene rekening:* FGR) or comparable foreign legal entities are eligible for the FBI regime. Comparable foreign legal entities are not required to have Dutch residency but they should be liable to Dutch corporate income tax.

If an FBI takes the legal form of an FGR – an entity which in itself does not have legal personality – it is required to have a management company. An FBI can only be self-managed if it is in the form of a company, although a management company could also be used in that situation.

Minimum share capital

The FBI regime does not impose any requirements as to minimum share capital. However, minimum capital requirements do follow from Dutch company law and are as follows for the various Dutch entities:

BV: EUR 18,000
NV: EUR 45,000
FGR: none

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
If listed or regulatory licensed: - One single corporate entity may stand alone - or together with affiliates - hold up to 45% of the shares. - One single individual may hold up to 25% of the shares. If not listed or licensed: - The shares in the FBI must for at least 75% be owned by individuals / non-taxable corporate entities / regulated FBIs. - One single individual may hold up to 5% of the shares. Further, in both cases. Only up to 25% of the shares in the FBI may be owned by Dutch corporate entities through the interposition of foreign entities.	No

Shareholder requirements

The FBI shareholder requirements are more lenient if either the FBI is listed on any recognised stock exchange, it (or its manager) has a licence pursuant to the WFT or it (or its manager) benefits an exemption there from (hereinafter referred to as a 'regulated FBI'). If the FBI does not meet any of these requirements (hereinafter referred to as a 'non-regulated FBI') more stringent shareholder requirements must be met.

In case of a regulated FBI the shareholder requirements can be summarised as follows:

- a single corporate entity (a regulated FBI excluded) which is subject to any form of profit tax or an entity whose property is taxed in the hands of its participants – i.e. a transparent entity – may not own 45% or more of the shares together with affiliated entities; and
- a single individual may not own an interest of 25% or more.

In case of a non-regulated FBI, the shareholder requirements are as follows:

- at least 75% of the shares must be held by any combination of (i) individuals, (ii) corporate entities which are not subject to any form of profit tax or which are exempt there from and whose profit is not taxed in the hands of the beneficial owner of those profits and (iii) directly or indirectly by regulated FBIs;
- a single individual may not own an interest of 5% or more.

Irrespective of whether the FBI is regulated or not, all FBIs must meet the condition that their shares are not owned for 25% or more by Dutch resident entities through the interposition of non-Dutch entities which have a capital divided into shares or mutual funds.

However, it is approved by the Ministry of Finance that non-regulated FBIs having a non-regulated FBI as shareholder which owns more than 25% of the shares will meet the shareholder requirements, provided the non-regulated FBI distributes 95% of the available profit during its current financial year. Therefore, multi-layer FBI structures are possible to a certain extent.

Listing requirements

Listing is not required, but it does offer access to less restrictive shareholders conditions.

2.4 Asset level / activity test

Restrictions on activities / investments
- FBIs are only permitted to invest in passive, portfolio investments. - FBIs are allowed to invest abroad.

The statutory object and the actual activities of an FBI must be exclusively restricted to the making of portfolio investments. In that it is prohibited to be engaged in activities which go beyond those of making passive, portfolio investments. As a matter of practice, this means the investments must have the objective of realising a return in terms of yield derived from investment and appreciation in value which one reasonably may expect from regular investment management.

An FBI investing in real estate must restrict its activities to 'passive' renting out of and investment in real estate. As of 2009 the permitted activities of an FBI itself also include (i) the granting of bank guarantees for the benefit of affiliated companies whose assets comprise at least 90% of real estate (and associated rights), and (ii) financing those companies with external loans. Furthermore, real estate development is, in principle, not regarded as a 'passive' investment activity. However, development activities on behalf of an FBI itself are specifically permitted. These activities should be carried out by a subsidiary which is subject to tax at the common corporate tax rate (25%). This 'development subsidiary' is not allowed to carry out any other activity than development for the FBI's portfolio of properties and it should charge the FBI for an arm's length fee. For practical purposes the law provides for a safe haven to avoid discussions about the nature of relatively small investment activities: improving and expanding existing real estate objects will not be considered 'development activities' as long as the investments involved do not exceed 30% of the relevant property's market value determined under the Value of Immovable Property Act (*Wet waardering onroerende zaken:* WOZ).

An FBI is allowed to invest in foreign assets. It would, however, still be subject to the same restrictions. It may hold shares and / or interests in subsidiary corporations and / or in partnerships.

2.5 Leverage

Leverage
- 60% of fiscal book value of directly/indirectly held real estate; and - 20% of fiscal book value of all other investments.

The loan capital may not exceed:

- 60% of the fiscal book value of directly / indirectly held real estate; and
- 20% of the fiscal book value of all other investments.

Loan capital is defined as the total amount borrowed. Loan capital is, in principle, calculated on a non-consolidated basis.

As of 2009, the 60% leverage ratio for investments in real estate also applies to equity investments through shares in affiliated companies whose assets comprise at least 90% of real estate (and associated rights), i.e. indirectly held real estate. Further, intra-group loans to such real estate subsidiaries of an FBI may be externally funded up to 100%. Therefore, intra-group financing arrangements made to real estate subsidiaries effectively fall outside an FBIs leverage restriction. Consequently, an FBI will be able to attract external financing in order to provide back-to-back financing to real estate group subsidiaries without deteriorating its financing limits.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
100% of taxable profit.	Capital gains / losses can be allocated to a tax-free reserve.	Within eight months after the end of its financial year.

Operative income

Dutch tax law requires that an FBI distributes all (100%) of its profits to its shareholders within eight months after the end of its financial year. The amount of taxable profit is calculated on the basis of the normal rules applicable to corporate income tax payers, with exceptions especially provided for FBIs. According to these rules, depreciation on passively held real estate in practice is abandoned in most cases as from 2008. As a result, most FBIs will have faced a sharp increase of the profits that needs to be distributed.

Capital gains

The net balance of unrealised capital gains on securities and realised capital gains on all other investments may be added up to a so-called reinvestment reserve (*herbeleggingsreserve*). These capital gains are excluded from the taxable profit of the FBI and not subject to the profit distribution obligation.

2.7 Sanctions

Penalties / loss of status rules
Cancellation of FBI status.

If at any point in time an FBI fails to meet any of the requirements to qualify as an FBI, such FBI status will be cancelled as from the start of the accounting year during which such failure occurred, except for a failure of the profit distribution which will cancel the FBI status as from the start of the accounting year the profits of which should have been duly distributed under this requirement.

The main consequence of a loss of the FBI status is that the relevant entity will become a regular taxpayer for Dutch corporation tax so that its profits and gains determined in accordance with Dutch tax accounting principles will be subject to Dutch corporation tax at the regular rates (current main rate: 25%).

3 Tax treatment at REIT level

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Real estate income is part of the taxable profit and is subject to a corporate income tax rate of 0% (effective exemption).	Capital gains / losses can be allocated to a tax-free reserve and are thus exempt from corporate income tax.	Taxes withheld are not refunded; FBIs are granted a dividend tax remittance rebate instead.

Current income
An FBI is subject to corporate income tax in the Netherlands at a rate of zero per cent. The taxable profits of an FBI are in principle determined on the basis of the same tax accounting principles which apply to taxpayers which are regularly liable to Dutch corporate income tax. The taxable profits typically include the direct investment result and, if the reinvestment reserve is not applied, the net balance for capital gains and losses. However, some exceptions on the determination of the taxable profit apply to an FBI. Without being exhaustive, the main exceptions are:
- certain particular items which are not deductible for regular corporate income taxpayers are taken into account in calculating the taxable profit of an FBI;
- the participation exemption does not apply to investments in entities made by an FBI;
- subject to conditions and limitations, an FBI can elect to apply a rounding-off reserve (*afrondingsreserve*);
- subject to conditions and limitations, an FBI can elect to apply a reinvestment reserve (see above).

Capital gains
The FBI can elect to apply a reinvestment reserve. By doing so, the balance of capital gains and losses are excluded from the taxable income and allocated to the tax-free reinvestment reserve. The remainder of taxable income represents the annual distribution obligation (see above).

Withholding tax
Given that an FBI is liable to Dutch corporate income tax at a rate of zero percent, the FBI is effectively unable to credit Dutch or foreign withholding taxes suffered against its Dutch corporate income tax liability. Moreover, unlike taxpayers who are regularly liable to Dutch personal income tax or corporate income tax and who are generally able to credit Dutch dividend withholding tax against the Dutch personal income tax or corporate income tax in full, the FBI is not entitled to a refund of Dutch dividend withholding tax upon request.

However, subject to certain conditions and limitations, the FBI is allowed to apply a rebate to its obligation to remit the amount of Dutch dividend withholding tax which the FBI has (or is deemed to have) withheld in respect of its recurrent compulsory distribution of profits in an amount equal to the amount of taxes suffered by the FBI by way of withholding (afdrachtvermindering). So, the FBI can impute the domestic and foreign withholding tax it suffered on the obligation to pay withholding tax which it withholds from distributions it makes to its shareholders.

With respect to such a rebate in respect of foreign withholding taxes, certain limitations apply. Such limitations are: (i) a maximum underlying tax rate of 15% which will be taken into account with respect to foreign source dividends and interest; and (ii) the rebate is further reduced if and to the extent that a foreign shareholder of the FBI is entitled to a reduction of the Dutch dividend withholding tax rate under a prevailing arrangement for the avoidance of double taxation.

Accounting rules

There are no special commercial accounting rules for FBIs. An FBI is required to follow IFRS rules, just like any other listed company.

3.2 Transition regulations

Conversion into REIT status
- All assets and liabilities are assessed at market value. - Tax-recognised reserves must be realised and should be added to the taxable profits. - Hidden capital gains and losses must be recognised and are subject to corporate income tax at a regular rate.

At the end of the year immediately prior to the year as of which the entity converts to an FBI, all its assets and liabilities must be assessed at market value. Hidden capital gains are therefore realised and subject to corporate income tax in accordance with the regular rules. Tax-free reserves must be realised and added to the taxable profits. The final tax charge prior to conversion is levied at the ordinary Dutch corporate income tax rate (25%), i.e. a special conversion regime is not available.

3.3 Registration duties

Registration duties
- No capital duties. - A real estate transfer tax of 6% applies if the FBI acquires, or disposes of, Dutch real estate or shares of Dutch real estate companies.

A 6% real estate transfer tax *(overdrachtsbelasting)* applies if the FBI acquires or disposes of Dutch real estate. In addition, an acquisition leading to an interest of at least one third in a Dutch real estate company is subject to real estate transfer tax as well. Real estate transfer tax is levied from the acquirer of Dutch real estate or the shares of the Dutch real estate company.

4 Tax treatment at shareholder level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Dividends and capital gains are taxable.	Taxpayer is taxed on the basis of a deemed income.	- In principle, withholding tax of 15%. - Creditable.

Corporate shareholder

A Dutch corporate investor's investment in shares in an FBI disqualifies for the participation exemption regime. Therefore, any benefits derived from this shareholding in terms of dividends and capital gains, will be included in the taxable profits and will be liable to corporate income tax at the regular rate (25%).

In principle, Dutch corporate investors can credit the Dutch dividend withholding tax which they have suffered on dividends distributed by the FBI against their Dutch corporate income tax liability (full credit). Any excess of dividend withholding tax is refundable.

Individual shareholder

The income tax consequences of a Dutch individual shareholder depend on the qualification of the FBI participation for the investor. In most cases, benefits from the investment will be taxed annually as a benefit from savings and investments *(voordeel uit sparen en beleggen).* Such benefit is deemed to be 4% per annum of the average of the 'yield basis' *(rendementsgrondslag)* at the beginning and at the end of the year, to the extent that such average exceeds the 'exempt net asset amount' *(heffingsvrij vermogen)* for the relevant year. The benefit is taxed at the rate of 30%. The value the investment forms part of the yield basis. Actual benefits derived from the participation in the FBI, including any gain realised on the disposal of the shares, are not as such subject to Dutch income tax.

If an individual owns, alone or together with certain family members, an interest of 5% or more in an FBI (a regulated FBI only), the dividend distributions and capital gains are subject to the so-called 'substantial interest' taxation rules (*aanmerkelijk belang*). Basically, all results from the interest are taxed at a flat rate of 25%, if and when received.

If an individual owns FBI shares in the course of his enterprise, the results from the interest could be subject to tax at progressive income tax rates (up to 52%).

Withholding Tax

Distributions of profits in whatever name or form made by an FBI are subject to 15% Dutch dividend withholding tax. Distributions sourced from the reinvestment reserve *(herbeleggingsreserve)* are considered to have a capital nature for tax purposes and, therefore, are not subject to Dutch dividend withholding tax under certain circumstances. The repayment of nominal share capital is generally not subject to dividend withholding tax. However, the redemption of share premium is only free from dividend withholding tax if the FBI does not have any net profit *(zuivere winst)*, such as available profit reserves or hidden reserves.

Dutch taxable corporate and individual shareholders are allowed to credit the Dutch withholding tax against the corporate income tax and personal income tax liability in the Netherlands. If the FBI has applied the dividend tax remittance rebate *(afdrachtvermindering)*, this does not affect the entitlement to a credit by such Dutch shareholder.

A Dutch entity which is not subject to Dutch corporate income tax (i.e. pension funds), can claim a refund of Dutch dividend withholding tax suffered on distributions by an FBI. The refund may not be equal to the entire amount of Dutch dividend tax which they have suffered in respect of their dividend. The refund will be reduced if the FBI has applied the dividend tax remittance rebate *(afdrachtvermindering)* with respect to foreign withholding taxes.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Generally speaking should not be subject to corporate income tax.	Generally speaking should not be subject to personal income tax.	- Tax treaty relief might apply. - Parent-Subsidiary Directive does not apply.

Corporate shareholder

Generally speaking, foreign corporate investors should not be subject to Dutch corporate income tax with respect to their investment in an FBI. However, a foreign corporate investor which owns a so-called 'substantial shareholding' in a Dutch FBI (generally speaking 5% or more of the FBI's aggregated nominal share capital) may be liable to corporate income tax on the dividends received and capital gains made. Most conventions for the avoidance of double taxation concluded by the Netherlands prohibit the Netherlands from exercising these taxing rights.

Individual shareholder

Generally speaking, foreign individual investors should not be liable to Dutch personal income tax with respect to their investment in an FBI. However, a foreign individual investor which owns a so-called 'substantial shareholding' in a Dutch (regulated) FBI (generally speaking 5% or more of the FBI's aggregated nominal share capital) may be liable to personal income tax at a flat rate of 25% on the dividends received and capital gains made. Most conventions for the avoidance of double taxation concluded by the Netherlands prohibit the Netherlands from exercising these taxing rights.

Withholding tax

Distributions of profits in whatever name or form made by an FBI are subject to 15% Dutch dividend withholding tax. Distributions sourced from the reinvestment reserve *(herbeleggingsreserve)* are considered to have a capital nature for tax purposes and, therefore, are not subject to Dutch dividend withholding tax under certain circumstances. The repayment of nominal share capital is generally not subject to dividend withholding tax. However, the redemption of share premium is only free from dividend withholding tax if the FBI does not have any net profit *(zuivere winst)*, such as available profit reserves or hidden reserves.

An entity which is established in a country within the European Union or European Economic Area which is not subject to corporate income tax in that country and neither would be subject to Dutch corporate income tax if the entity would be established in the Netherlands, can file a request to the Dutch tax authorities for a refund of Dutch dividend withholding tax. The refund may not be equal to the entire amount of Dutch dividend tax which it has suffered in respect of its dividend. The refund will be reduced if the FBI has applied the dividend tax remittance rebate *(afdrachtvermindering)* with respect to foreign withholding taxes.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
A foreign REIT should be tax-exempt.	No specific tax privileges.	No specific tax privileges.

Foreign REIT

A foreign entity which is comparable in nature, form and behaviour to the qualifying Dutch FBI and that complies with all the FBI requirements (shareholder, leverage, distribution obligation, etc.) can obtain FBI status in respect of its qualifying Dutch sources of income (Dutch real estate, etc.). In that case, qualifying FBI income derived from Dutch taxable source will be subject to a corporate income tax rate of 0%.

Corporate shareholder

The participation exemption does not apply to a participation in a Dutch resident or foreign resident company which qualifies as an FBI. Hence, a Dutch corporate shareholder owning a participation in a foreign entity which qualifies as an FBI cannot apply the participation exemption in respect of income and gains derived from the participation in the FBI. However, a participation of a Dutch corporate taxpayer in a foreign REIT is in principle eligible for the participation exemption, provided certain conditions are met.

Individual shareholder

There is no specific tax privilege. ■

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Global REIT Survey 2011

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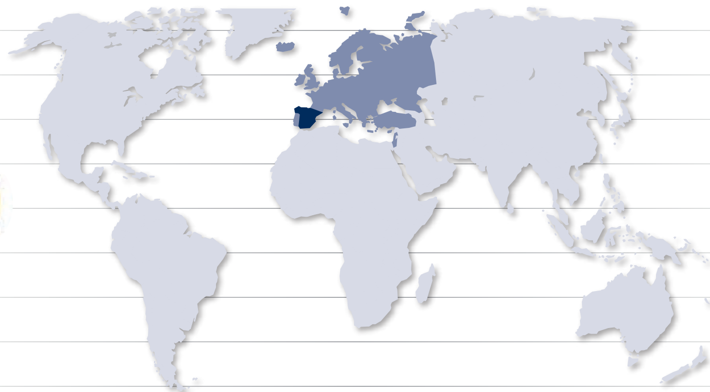

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EPRA REPORTING
European Public Real Estate Association

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1 General introduction / history / REIT type

	Enacted year	Citation	REIT type	REIT market
SOCIMI	2009	Act 11/2009	Corporate type.	To be established.

The Act 11/2009 governing the *'Sociedades Anónimas Cotizadas de Inversión en el Mercado Inmobiliario'* (the so-called 'SOCIMI') introduces in the Spanish real estate market a long-awaited REIT vehicle. However, SOCIMIs, unlike other European REITs will be taxed at a flat 19% tax-rate. This tax will be the final tax for Spanish Personal Income Tax taxpayers and for Non-Resident (without permanent establishment in Spain) taxpayers, as generally none of them will be taxed on dividends and capital gains derived from their investment in a SOCIMI.

2 Requirements

2.1 Formalities / procedure

Key requirements
To be listed in a regulated market. Election to apply the special tax regime.

SOCIMIs must be listed in a regulated market in Spain, in the European Union, or within the European Economic Area uninterruptedly for the entire tax period.

Furthermore, the election to apply this special tax regime must be adopted by the general shareholders meeting and notified to the Tax Authorities prior to the last quarter of the tax period in which the special tax regime is intended to be applied. This tax regime will take effect as from that period until notification is given to stop applying this special regime.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Listed join stock corporation (Sociedad Anónima).	EUR 15 million.

SOCIMIs must take the form of a listed joint-stock corporation with a minimum share capital of EUR 15 million.

Besides, it is compulsory that their corporate name includes the name or acronym by which they are known in Spain; i.e. *'Sociedad Anónima Cotizada de Inversión en el Mercado Inmobiliario, Sociedad Anónima'* or *'SOCIMI, S.A.'*.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
No maximum ownership percentage. Minimum free float of 25%.	Yes

Shareholder requirements
There is no prohibition of acquisition of a shareholding over a determined percentage of the share capital. However, it is required to maintain at least 25% of free float.

Listing requirements
Listing is mandatory. For the first tax period it is only mandatory since the election to for the special tax regime.

2.4 Asset level / activity test

Restrictions on activities / investments
Asset test: at least 80% of their assets must be invested in: (a) real estate (acquired or developed) to be rented or, (b) other SOCIMIs, (c) foreign REITs and (d) Spanish or foreign qualifying subsidiaries and real estate collective investment schemes. Revenue test: at least 80% of the SOCIMIs revenues must derive from eligible assets. Asset diversification: SOCIMIs must own at least three properties - none of them representing more than 40% of the total assets value upon acquisition. Minimum holding period: qualifying assets are generally subject to a minimum three-year holding period (seven in the case of property developed by the SOCIMI).

A SOCIMI must have as primary corporate purpose:

i. To acquire and develop (restoring included) urban real estate for rental purposes.
ii. To hold shares of other SOCIMI or REITs which have a similar corporate purpose and similar income distribution requirements.
iii. To hold registered shares in the capital stock of other (non-listed) companies - regardless they are tax resident in Spain or not - which have as their primary corporate purpose to acquire urban real estate to be rented, and are subject to an equivalent investing, income distribution and leverage requirements. However, these companies cannot hold investments in the capital stock of other companies. Besides, these entities must be fully owned by a SOCIMI or a REIT. It should be noted that these entities may also opt to apply SOCIMI special tax regime (to the extent that they are Spanish residents).
iv. To hold shares/participations in real estate collective investment schemes.

At least 80% of their assets must be those describe above, and at least 80% of the SOCIMI revenues must derive from the above-mentioned eligible assets.

It is compulsory that a SOCIMI owns at least three properties, any of which must not represent more than 40% of the total asset value upon acquisition according to the information disclosed in its consolidated balance sheet. In this respect, the assets value can be calculated at either book value or fair market value.

Finally, there is a minimum holding period requirement for eligible assets:

i. Real estate acquired: it must be rented during at least three years. For this purpose, the period of time during which the property is on the market for rent will be computed (although vacant), with a maximum of one year.
ii. Real estate developed by the company: seven years.
iii. Qualifying shares/participations: three years.

2.5 Leverage

Leverage
Maximum 70% of leverage (Debt/Assets) ratio.

There is a leverage threshold of 70% over the value of the assets (according to the information disclosed in the individual/consolidated balance). SOCIMIs can elect to compute assets either at book value or fair market value.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of profits obtained from rental and ancillary activities 100% of profits stemming from dividends distributed by qualifying entities.	50% of profits derived from the transfer of qualifying property and holdings where the holding period has been met.	In a maximum of six months as from the financial year end.

Operative income
At least 90% of the operative income of SOCIMI coming from rental and ancillary activities. However it is compulsory to distribute 100% of profits stemming from dividends distributed by qualifying entities.

Capital gains
At least 50% of the profit corresponding to income derived from the transfer (where the holding period has been met) of real estate assets and qualifying holdings must be distributed. The other 50% of that profit must be reinvested in eligible assets in a period of three years.

Timing
All income must be distributed among the shareholders in the month following the date of the distribution agreement. The distribution agreement needs to take place within six months of the financial year end.

Exception:
Income subject to the general tax rate of 30% is not subject to any distribution requirement.

2.7 Sanctions

Penalties / loss of status rules
- Loss of SOCIMI status. - Penalties of EUR 1,500 up to EUR 30,000 in case of failure to comply with information obligations.

A SOCIMI failing to comply with the established requirements will lose the SOCIMI status and the special tax regime. Should this be the case, this special tax regime will not be eligible for five years.

In case of not compliance with information obligations, the Bill establishes penalties from EUR 1,500 up to EUR 30,000 depending on the kind of information not provided.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
19% corporate income tax rate (general rule). An effective tax rate of 15.2% may also be applicable to SOCIMIs engaged in the rental of real estate, provided that certain requirements are met. 30% on certain events.	19% income tax rate (general rule). 30% on certain events.	General withholding tax rules.

Current income
As a general rule, a SOCIMI will be taxed under Corporate Income Tax (CIT), at a reduced 19% flat rate. Furthermore, the special tax regime grants a 20% exemption for rental income derived from residential real estate provided that more than 50% of the assets of the SOCIMI consist of residential real estate (leading to an effective tax rate of 15.2%).

Nevertheless, a SOCIMI will be taxed at the standard CIT rate of 30% on:

i. Capital gains derived from the disposal of qualifying assets/participations in the following events: where:
   a. the holding requirement period requirement has not been met; or
   b. the transferee is a related party within the same group as defined in article 16 of the CIT Act; or
   c. the transferee is resident in a territory where there is no actual exchange of information.

ii. Rental income when the tenant is:
   a. a company belonging to the same group as defined in article 16 of the CIT Act; or
   b. resident in a territory where there is no actual exchange of information.

iii. Income derived from transactions which will not trigger any income from accounting standpoint.

Capital gains
As a general rule a SOCIMI will be taxed under CIT, a 19% flat rate applicable.

Nevertheless, a SOCIMI will be taxed at the standard CIT rate of 30% in the circumstances described above.

Other taxes
The incorporation/share capital increase of a qualifying SOCIMI as well as the contribution of assets to the latter are eligible for a capital duty (1%) exemption. See also section 3.3.

Withholding tax
General withholding tax rules apply.

Accounting rules
No specific particularities apply. Spanish GAAP must be observed.

3.2 Transition regulations

Conversion into REIT status
The requirements of the SOCIMI regime must be met in the following two years after the option for this tax regime is made. There are also special transition rules for holding period requirements.

Regardless the fact that a SOCIMI does not meet all the necessary requirements, it can apply the special tax regime provided that the requirements are met in the following two years after the option for this tax regime is made.

During this transitional period the shareholders' taxation will be the following:

- CIT and non-residents with permanent establishment taxpayers will be entitled to apply the special regime.
- Personal Income Tax and non-residents without permanent establishment taxpayers, will be entitled to apply the special regime provided that at the time of filing the corresponding tax returns, the SOCIMI meets all the requirements (otherwise, they can apply the regime retroactively once the requirements are met).

Finally, up to December 31, 2010, the minimum holding period of three years for real estate can be reduced to two/one year/s to the extent that the property has been rented or on the market for rent in the five/ten years respectively prior to the date of election of SOCIMI status.

3.3 Registration duties

Registration duties
95% exemption on Transfer Tax and Stamp Duty.

A 95% exemption of Transfer Tax (tax rate between 6% and 7%) and Stamp Duty (tax rate between 0.5% and 2%) is applicable to residential real estate acquired for rental purposes.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
As a general rule, dividends and capital gains are subject to a 11% effective taxation.	As a general rule, dividends and capital gains derived from a SOCIMI are exempt, subject to certain limitations.	No withholding tax.

Corporate shareholder

i. Dividends will be grossed up and taxed at the standard 30% rate, with a right to a tax credit equivalent to 19% of the income included in the shareholder's taxable base (with certain exceptions). The effective tax rate for the shareholder will be 11%, and therefore the overall tax burden (SOCIMI + Spanish corporate shareholder) will be 30% (19% plus 11%).
ii. Capital gains will be taxed at the standard 30% tax rate, subject to the following rules:
   a. A tax credit of 30% to avoid double taxation shall be applicable in relation to income derived from the transfer of the SOCIMI shares (art. 30.5 of Spanish CIT Act), corresponding to retained earnings of the SOCIMI that have been subject to the general rate of CIT (30%), provided that certain requirements are met.
   b. With regards to the portion of the capital gain corresponding to retained earnings of the SOCIMI that have been taxed at the special 19% tax rate, these will be grossed up, with a right to a 19% tax credit. The effective rate for the shareholder will therefore be 11%.
   c. Any losses obtained will not be deductible if the shares were acquired from a related party as defined in article 16 of the CIT Act, to the extent of the exempt income obtained by that party at the time of the first transfer.

Individual shareholder

We should distinguish:

i. Dividends will be fully exempt.
ii. Capital gains will be calculated according to Personal Income Tax Act rules. Should there be a gain, this gain will be tax-exempt up to the difference between:
   a. The result of multiplying 10% of the basis in the SOCIMI shares by the number of years of the holding period in which the SOCIMI has applied the special tax regime.
   b. And the amount of the exempt dividends received during the holding period.

The capital gain will not be exempt if it was acquired from a related party to the extent of the loss obtained by that company on the transfer.

Withholding tax

Dividends distributed to shareholders are not subject to withholding taxes.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
As a general rule, dividends and capital gains derived from their investment in SOCIMI are exempt, subject to certain limitations.	As a general rule, dividends and capital gains derived from their investment in SOCIMI are exempt, subject to certain limitations.	No withholding tax.

Corporate shareholder

The following relates to foreign corporate shareholders not acting in Spain through a permanent establishment. In such cases, the applicable tax treatment would be the same as for Spanish resident individual shareholders. In this respect we should distinguish:

i. Dividends will be exempt. However, shareholders resident in a territory where there is no actual exchange of information will be taxed on dividends at 19% rate.
ii. Capital gains will be subject to the same rules applicable to Spanish resident individuals. However shareholders resident in a territory where there is no actual exchange of information will be taxed on capital gains at a 19% tax rate.

Individual shareholders

The same tax treatment as corporate foreign shareholders applies.

Withholding tax

Dividends distributed to shareholders (resident or non-resident) are not subject to withholding taxes.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Case by case analysis needed.	Subject to taxation in Spain. Specific analysis of foreign REIT is required.	Subject to taxation in Spain. Specific analysis of foreign REIT is required.

Foreign REIT

The taxation of foreign REITs varies on a case-by-case basis. Many factors are taken in consideration such as whether the foreign REIT operates in Spain through a permanent establishment, or if the foreign REIT qualifies as a transparent entity, among others. No special rules apply except for foreign REITs incorporated in black-listed tax havens, in which case special anti-abuse rules apply (similar to CFC rules).

Corporate shareholder

Subject to taxation in Spain. Double-taxation relief credit or participation exemption may be available, specific analysis of foreign REIT is required though.

Individual shareholder

Subject to taxation in Spain. Double-taxation relief credit may be available, specific analysis of foreign REIT is required though. ■

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Global REIT Survey 2011

September

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Turkey

(REIC)

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EPRA REPORTING

European Public Real Estate Association

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1 General introduction

	Enacted year	Citation	REIC type
REIC	1995	- Capital Markets Law. - Communiqué on Principles Regarding Real Estate Investment Companies, Serial VI No. 11.	Corporate type National Stock Exchange Commission.

REIC is a capital market institution that can invest in real estate, capital market instruments.

REICs were introduced in 1995 after the completion of the necessary legal arrangements by the Capital Markets Board (CMB). Turkish REICs are corporate income tax-exempt stock companies that must be listed on an organised stock market in Istanbul.

The Turkish real estate market has grown very rapidly and has demonstrated remarkable performance during the past couple of years. In parallel to the increase in demand and high quality office and retail space, the brand new mortgage system and decreasing interest rates have been the main catalysts for the noteworthy pick up of the real estate market.

REICs have entered the Turkish real estate market as an advantageous vehicle that offers easy access to the profits of huge real estate portfolios. Thus REICs have attracted the attention of both local and foreign investors. The 21 listed REICs' total net asset value reached a level of approximately EUR 6.8 billion as of December 31, 2010.

Starting from the beginning of 2009, the CMB announced another type of CMB-regulated company as Infrastructure Real Estate Investment Companies (IREIC). IREICs are closed-end, corporate tax exempt, investment companies managing portfolios composed of infrastructure investments and services, projects based on infrastructure investments and services, capital market instruments based on infrastructure investments and services, infrastructure companies, other real estate investment trusts, companies operating foundations established within infrastructure investments and services (operating companies) and other capital market instruments. (Explanations below are specific to REICs. Please consult your advisor for detailed info regarding IREICs).

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Turkey	19	19,4	2,0	0,4%

Top five REICs (end of July 2011)

Company Name	Market cap (€m)	Sector type
Sinpas Gayrimenkul Yatirim Ortakligi AS	399	Residential
Akmerkez Gayrimenkul Yatirim Ortakligi AS	330	Hotel, Office, Parking, Residential, Retail
Is Gayrimenkul Yatirim Ortakligi AS	317	Hotel, Land, Office, Retail
Y ve Y Gayrimenkul Yatirim Ortakligi AS	155	Land, Office, Residential, Retail
Kiler Gayrimenkul Yatirim Ortakligi AS	139	Industrial, Land, Office, Parking, Residential, Retail

2 Requirements

2.1 Formalities / procedure

Key requirements
- Regulated and closely monitored by the Capital Markets Board (CMB). - Statutes must be in accordance with the law and the procedures of the Communiqué. - Founders must have no records of legal prosecution due to bankruptcy or other offences.

According to article 6 of the Communiqué, REICs may be constituted by way of establishing new joint stock companies, or existing joint stock companies can convert into REICs by amending their articles of association in accordance with the procedures of the Communiqué and CML.

For the purpose of establishing a REIC, the founders are required to apply to the CMB in order to obtain its approval for establishment with an application for establishment form, the format and procedures of which are determined by the CMB, and the documents specified in this form.

For either the establishment or the conversion of a company into an REIC, CMB approval must be obtained. In order to obtain the approval for establishment from the CMB, the applicant companies are required to hold the qualifications specified below:

- Prospective REICs have to be established in the form of joint stock companies with registered capital.
- Prospective REICs have to be established in order to offer the shares representing at least 25% of the issued capital to the public within three months and principles determined by the Communiqué.
- The initial capital should not be less than TRY 21.54 million for the year 2011. This amount is to be amended by the CMB annually.
- If the initial capital is less than TRY 50 million, at least 10% of the shares representing initial capital should be issued for cash; if the initial capital is TRY 50 million or more, at least TRY 5 million of the shares representing the initial capital should be issued for cash.
- The phrase “Real Estate Investment Company” should be included in the commercial title.
- An application has to be filed with the CMB for the providing of portfolio management services.
- Natural person founders and the members of the board of directors of legal person founders, other than the founders which are public entities and which are legal entities having the capacity of a public entity, must meet the conditions mentioned in the Communiqué.
- The articles of association of the prospective REIC have to be in conformity with the provisions of CML and the Communiqué.
- The affirmative opinion of the CMB needs to be obtained.

In order for the approval of the transformation of other companies into REICs, those companies should meet the following requirements;

- Applicant companies are required to be in the registered capital system or should have applied to the CMB for this purpose.
- Applicant companies are required to declare their commitment to the CMB that at least 25% of the issued capital of that company shall be offered to the public within three months and principles determined in the Communiqué.
- The present paid-in capital or issued capital should not be less than TRY 21.54 million.
- If the present paid-in capital or issued capital is less than TRY 50 million, at least 10% of the shares representing present paid-in capital or issued capital should be issued for cash.
- If the present paid-in capital or issued capital is TRY 50 million or more, at least TRY 5 million of the shares representing present paid-in capital or issued capital should be issued for cash.
- An application needs to be filed with the CMB in order to change its commercial title so that the phrase “Real Estate Investment Company” is included.
- An application needs to be filed with the CMB for the providing of portfolio management services.
- Natural person shareholders and members of boards of directors of legal person shareholders, other than the shareholders which are public entities and which are legal entities having the capacity of a public entity that have at least 10% or more of the concerned company’s shares, must meet the conditions mentioned in the relevant legislation.

An application needs to be filed to amend the articles of association to comply with the provisions of the relevant legislation and obtain the favourable opinion of the CMB.

The CMB evaluates the application in terms of conformity to the provisions of CML and the Communiqué. Upon obtaining the relevant approval from the CMB, an additional application shall be filed with the Ministry of Industry and Commerce requesting the approval of the amendments in the articles of association in the case of a conversion or the approval for establishment in the case of immediate establishment; with documents certifying that the capital has been paid in accordance with the provisions of the Communiqué.

Instantaneously established companies shall acquire a legal identity upon registration of the company with the Trade Registry in accordance with the related provisions of the Turkish Commercial Code.

Corporations to be converted shall call the shareholders and, if necessary, the preferred stockholders of the company to a meeting in accordance with article 389 of the Turkish Commercial Code so that the changes in the articles of association of the concerned company can be approved. With the approval of the amendments and registration with the Trade Registry, the conversion transactions shall be completed.

Further requirements other than those explained above may be imposed by the CMB during the approval process.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Joint stock company	TRY 21.54 million

Legal form

The general guidelines of joint stock companies are regulated with the Turkish Commercial Code. REIC specifics shall be determined by the Capital Market Laws and the Communiqué. The company's name must include "real estate investment company".

Share capital

The minimum capital requirement for a REIC is TRY 21.54 million for the year 2011. This amount is amended annually by the CMB. If the initial capital is:

- less than TRY 50 million, at least 10% of the shares,
- TRY 50 million or more, TRY 5 million of the shares, representing the initial capital should be issued for cash. The shares can be issued in registered or bearer form.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
Only for company founders.	Yes

Shareholder requirements

At least one of the founders must be leader equity owner (individually or by coming together owning shares equals to at least 20% of capital).

It is required in the real estate investment companies that:

- Real or legal person founders must not have any payable tax and insurance premium debt.
- Leader equity owners and real or legal founders that will have 10% or more of the capital shares must provide the required sources obtained from their own commercial, industrial, and other legal activities as free from any debt.
- Leader equity owners and real of legal founders that will have 10% or more of the capital shares must have the good repute as required by their status.

There are no restrictions on foreign shareholders.

Listing requirements

At least 25% of the REIC's shares should be offered to the public. REICs are obligated to apply to CMB for offering share certificates representing 25% of their capital to the public within three months

2.4 Asset level / activity test

Restrictions on activities / investments
- Only transactions permitted by the Communiqué are allowed. - Must primarily deal with portfolio management. - The portfolio of a general purpose REIC is required to be diversified. - If a REIC is established to display activity in a specific area or invest in a specific project, 75% of its portfolio must consist of assets mentioned in its title and/or articles of association. - Cannot be involved in the construction of real estate. - Cannot commercially operate any hotel, hospital, shopping center, etc. - Cannot provide services by its personnel to individuals or institutions in project development, project control, financial feasibility and follow-up of legal permission except for the projects related or to be related with the portfolio.

The portfolio of a general purpose REIC is required to be diversified based on industry, region and real estate and to be managed with a long-term investment purpose.

In case a REIC is established with the purpose of operating in certain areas or investing in certain projects, at least 75% of the REIC's portfolio must consist of assets mentioned in its title and/or articles of association.

REIC's are required to invest in real estates, rights supported by real estates and real estate projects at a minimum rate of 50% of their portfolio values. They can invest in time deposit and demand deposits in TRY or any foreign currency for investment purposes at a maximum rate of 10% of their portfolio values. The rate of vacant lands and registered lands that are in the portfolio for a period of five years that have not been subject to any project development should not exceed 10% of the portfolio value.

REIC's cannot:

- Engage in capital market activities other than portfolio management for its own portfolio limited to the investment areas.
- Be involved in construction of real estate as a constructor.
- Commercially operate any hotel, hospital, shopping center, business center commercial parks, commercial warehouses, residential sites, supermarkets and similar type of real estates and employ any personnel for this purpose.
- Engage in deposit business, conduct business and operations resulting in deposit collection.
- Engage in commercial, industrial or agricultural activities other than the transactions permitted.
- Grant loan or commit in any debit/credit transaction which is not related to good/services purchase and sale with their participations.

REICs can invest in foreign real estate and capital market instruments backed by real estate at a maximum rate of 49% of the portfolio value.

2.5 Leverage

Leverage
Short-term credits limited to three times the net asset value.

In order to meet the short-term fund demands or costs related to the portfolio, a REIC can obtain credits at a rate of three times the net asset value (net asset value defined as "The amount calculated by deducting the total debts from the portfolio of the company and by adding the receivables, other assets and liquid assets" as determined in the quarterly portfolio table). In order to calculate the maximum limit of such credits, the obligations of the company arising from financial leasing transactions and non-cash credits shall be taken into account.

A REIC can issue debt instruments within the restrictions of the capital market legislation. As for the issued debt securities, the aforementioned credits shall be deducted from the issue limit calculated according to the capital market legislation.

Companies can issue asset-backed securities-based sales contracts on, or on the promises to sell, real estate from the portfolio.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
- Minimum 20% as first dividend ratio. - Articles of association indicate the dividend ratio.	Will be regarded within the distributable profit.	Annually

The CMB sets out specific rules with respect to the timing, procedures and limits of profit distributions. As REICs are public companies, profit distributions of REICs are subject to the general regulations of the CMB regulating the profit distribution of public companies. According to the communiqués regarding dividend distributions, public companies are required to distribute at least 20% of their annual profits after the deduction of tax provisions, legal reserves and accumulated losses. The distributable profit is calculated in line with both CMB and Turkish Commercial Code regulations.

In order to secure the capital position of the REIC, the lesser of the net distributable profit calculated in line with the Turkish Commercial Code or in line with CMB regulations should be distributed.

However, based on the CMB communiqué public companies may freely decide to:

- distribute dividends entirely in cash;
- distribute dividends entirely as shares;
- distribute dividends partially in cash and partially as shares and keep the remaining as reserves;
- keep all the profits as reserves.

Please note that before a General Assembly takes a decision on the above, the CMB is authorised to announce the annual minimum profit distribution requirements.

If REICs decide to distribute dividends, the distribution process should be finalised no later than by the end of the fifth month following the financial year. Within the determination of the amount which is distributable, unrealised capital gains (appreciations) are not taken into account. REICs are entitled to make interim dividend distributions quarterly. Such interim dividend distributions are subject to CMB regulations as well. Interim dividend distributions shall not exceed half of the interim profits remaining after subtracting the legal reserves, tax provisions and accumulated losses.

2.7 Sanctions

Penalties / loss of status rules
Modification of the articles of association to exclude real estate investment company operations.

If REICs do not apply to the CMB by completing the public offering application form and the documents mentioned in this form within the time periods, or if the application is found inappropriate due to the failure to fulfil the necessary conditions, the REIC shall lose the right to operate as an REIC and the CMB will inform the Ministry of Finance accordingly.

As the company will lose its REIC status and its tax-exempt status, unpaid taxes, late payment interest and tax penalty will be levied retrospectively on the REIC from the incorporation date of the company by taking into consideration the five-year statute of limitations.

3 Tax treatment at the level of REIC

3.1 Corporate tax

Current income	Capital gains	Withholding tax
Tax-exempt.	Tax-exempt.	Credit/refund may be possible.

Current income

Generally, corporations in Turkey are subject to 20% corporate tax which is payable over the fiscal profit after adjusting for deductible/non-deductible items and exemptions. Annual corporate tax is declared and paid in April of the following year (assuming that a normal calendar year is applied).

The determination of the taxable income of REICs is no different to ordinary companies in Turkey. On the other hand, REICs are exempt from corporate tax and whilst they are obliged to submit an annual corporate tax return in April of the following year, they do not pay any corporate tax.

The dividend income of Turkish resident companies obtained from its taxable Turkish resident subsidiaries is exempt from corporate income tax.

Furthermore, in principle the dividend income obtained from non-taxable subsidiaries is taxable in Turkey. On the other hand, the dividend income of the non-taxable subsidiaries will not be taxed at the hands of the REICs thanks to their CIT exemption status.

The foreign corporate income of REICs is also exempt from corporate tax.

Dividends

A dividend withholding tax rate of 15% is applicable to dividends distributed to individual and foreign corporate shareholders. However for REICs, the Council of Ministers has determined a withholding tax rate of 0%, therefore dividend distributions to individual and non-resident shareholders of REICs create no dividend withholding tax burden.

Capital gains

Capital gains are, in principle, deemed the commercial income of an REIC and are thus regarded as corporate tax-exempt.

Withholding tax

REICs may have income subject to withholding taxes to be taxed at source. Credit/refund may be possible.

Accounting rules

Turkish REICs are required to prepare audited financial statements in accordance with the standards of the CMB, which are very similar to IFRS standards.

There is no separate tax accounting system in Turkey. The provisions of the tax laws are applied to the determination of taxable income by making adjustments to the fiscal profit determined in accordance with the CMB financial standards.

3.2 Transition regulations

Conversion into REIC status
In principle, no tax privilege.

There is no privileged exit taxation rule for capital gains realised on real estate if sold to a REIC. However, there is a specific limited exemption rule stipulated in the Corporate Income Tax Code and applicable only for resident companies. According to this rule, under some certain conditions, 75% of the gains derived from the disposal of real estate may be exempted from corporate taxes. This is not a special rule for real estate disposals to REICs. However, according to Corporate Tax Code, the earnings that a company, which is engaged in the trading of real estate property or their rental, obtained from the sale of such assets, is not eligible to the exception.

3.3 Other Taxes

Registration duties
- Title deed fee of 3.3%. - Stamp tax exemption. - Transfer may be subject to VAT.

VAT

Since no specific VAT exemption is applicable for the transactions carried out by REICs, transactions of REICs are subject to value-added tax (VAT). All transactions carried out by REICs, including the purchase and sale of land or any other real estate by an REIC from/to a Turkish resident company will be subject to 18% VAT which is accounted as input VAT.

On the other hand there are some exemptions to the above-mentioned principle:

- If the seller of the real estate is a real person (individual) and that individual is not constantly engaging in real estate trading, the sale of real estate will not be subject to VAT.
- Acquisitions of real estate from banks and insurance companies are not subject to VAT but are subject to banking and insurance transaction tax (BITT) at the rate of 5%. Please note that this BITT is taken as a cost.
- Acquisition of real estate from companies whose main activity is not real estate trading is exempt from VAT if the seller company has held that real estate for at least two years at the time of the sales transaction.

However, the input VAT that has been accumulated can be offset against the output VAT calculated over the sales or rental income of the REIC. Please note that the input VAT, that has been accumulated which could not be offset against the output VAT, cannot be considered as deductible expense in the determination of the corporate tax base.

Title Deed Fee

The acquisition of the legal title of Turkish property is subject to a 1.65% title deed charge over the higher of the sales price or the real estate tax base, which is determined by the related municipality by taking into consideration the fair market value of the real estate. This title deed fee is applicable to both the buyer and the seller separately. Therefore, the total title deed charge burden is 3.3%.

Stamp Tax

Stamp tax applies to a wide range of documents, including but not limited to agreements, financial statements and payrolls. Stamp tax is levied as a percentage of the monetary value stated on the agreements at rates ranging from 0.165% to 0.825%.

On the other hand promise to sell agreements and agreements signed by REICs regarding the acquisition and the disposal of real estate are exempt from stamp tax. Please note that apart from these agreements REICs are also subject to all stamp tax liability mentioned above.

Each and every original signed agreement that has a monetary value stated on it is separately subject to stamp tax at a general rate of 0.825% (8.25 per thousand) with a ceiling of TRY 1,251,383.40 (approximately EUR 610,000 under the current foreign exchange rate, subject to annual revaluation) for the year 2011.

Lease contracts are also subject to stamp tax. The rate applicable per original copy of a lease agreement is 0.165% (1.65 per thousand) with the cap amount mentioned above. In the case the period of the rental contract is longer than a year, the taxable base for the stamp tax is the total rent amount calculated over the full rental income and total period of the contract.

Property Tax

An annual property tax (real estate tax) is levied on the owner of real estate.

Buildings and land owned in Turkey are subject to property tax at the following rates:

- Residences 0.1%.
- Other buildings 0.2%.
- Vacant land (allocated for construction purposes) 0.3%.
- Land 0.1%.

Furthermore, the effective property tax rates are increased 100% for other properties that are within the borders of metropolitan areas.

Environmental Tax

Annual environmental tax will become due based on a tariff which does not have a material value.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Dividends and capital gains from share disposal subject to standard corporate income tax rate (20%).	- 50% of dividend subject to individual income tax (15% to 35%). - Capital gains in principle tax-exempt.	General view: N/A

Capital gains received by resident corporations
The capital gains derived from the sale of REIC shares by resident legal entities are to be included in the corporate income and will be subject to Corporate Tax. However, partial Corporate Tax exemption method can be used to minimise tax burden on the sale of shares.

Anatolium – Corio (Bursa, Turkey) In November 2010 Anatolium shopping centre celebrated its grand opening in Bursa, the fourth biggest city of Turkey. Anatolium was developed by Architect CPU Retail Ail Architects, LDA and has a GLA of 83,400 m².

Dividends received by resident corporations
Since REICs are exempt from corporate tax, 'participation exemption' is not applicable for the dividends received from REICs. So, dividends received by corporations in Turkey from REICs are subject to corporation tax. And then, if distributed to non-resident companies or individuals, those distributions are also subject to dividend withholding tax in line with local regulations.

Capital gains received by resident individuals
Since REICs are public companies, capital gains derived from the sale of shares in the Istanbul Stock Exchange by resident individuals will be subject to taxation via withholding tax. The current rate of 0% withholding tax is applicable for the capital gains received by resident individuals and that tax will be the final tax for those individuals.

Dividends received by resident individuals
Resident individual shareholders of REICs are obliged to declare half of the dividends received from REICs if half of the dividends received is higher than the declaration limit (approx. EUR 11,225 for the year 2010). Declared income will be subject to Income tax at the progressive rate between 15%-35%.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
0% withholding tax.	0% withholding tax.	0% withholding tax.

Capital gains received by non-resident corporations
Since REICs are public companies, capital gains derived from the sale of shares in the Istanbul Stock Exchange by non-resident legal entities that do not have a permanent establishment in Turkey, will be subject to taxation via withholding tax. The current rate of 0% withholding tax is applicable for the capital gains received by non-resident corporations and that tax will be the final tax for those companies.

Please note that capital gains derived from the sale of non-listed Turkish company shares by non-resident corporations that do not have a permanent establishment in Turkey is to be declared after the application of cost adjustment (adjustment of the original cost with Whole Sale Price Index (WPI) except for the month the shares are disposed if the total increase in WPI is more than 10%), within 15 days following the sale of shares, through a special corporate tax return and be taxed at standard corporation tax rate. Additionally dividend withholding tax will be applied on the net gains. But, since most of the Double Tax Treaties prohibits Turkey's taxation right on these capital gains depending on the holding period (one year in most cases) of the Turkish company shares we strongly suggest to examine double tax treaties before these transactions.

Dividends received by non-resident corporations

Dividends that are distributed by REIC will be subject to a 0% dividend withholding tax in Turkey. On the other hand, taxation of dividends in the hands of non-resident corporations depends on the tax treatment of the country of residence.

Capital gains received by non-resident individuals

Since REICs are public companies capital gains derived from the sale of shares in the Istanbul Stock Exchange by non-resident individuals, will be subject to taxation via withholding tax. The current rate of 0% withholding tax is applicable for the capital gains received by non-resident individuals and that tax will be the final tax for those individuals.

Dividends received by non-resident individuals

Dividends that are distributed by REIC will be subject to a 0% dividend withholding tax in Turkey. On the other hand, taxation of dividends in the hands of non-resident individuals depends on the tax treatment of the country of residence. ■

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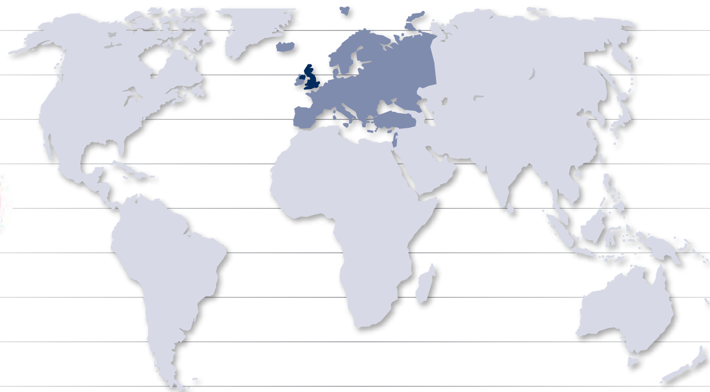
United Kingdom

(REIT)



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EPRA REPORTING

European Public Real Estate Association

For any questions or feedback related to this survey, please contact:

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1 General introduction / history / REIT type

	Enacted year	Citation	REIT type
UK-REIT	2007	Finance Act 2006, and subsequently issued regulations. Legislation re-written with enactment during Spring 2010.	Corporate entity.

The UKREIT was introduced in the UK with effect from January 01, 2007 by the Finance Act 2006. On January 01, 2007 nine companies elected to become REITs - a number which grew significantly within the first year of the regime, but since then the increase has been small each year.

The UK REIT regime operates through a combination of legislation (primary and secondary) plus guidance. The primary legislation has been rewritten as part of an ongoing project to simplify the UK's tax legislation. The rewritten legislation forms part of the Corporation Tax Act 2010. There will also be guidance to accompany the legislation, which is currently being updated. The legislation now refers to the property rental business (previously referred to as "tax exempt") and the residual business (which relates to all other business activities).

The government has launched a consultation as part of the 2011 budget announcements to consider whether and how certain amendments to the REIT rules could be introduced. Such proposed measures include the abolition of the entry charge, changes to the listing requirements and simplification of the shareholding requirements. Such changes are aimed at encouraging investment from a wider range of investors in REITs; HMRC also hope that abolishing the entry charge may encourage investments by UK REITs in residential property. It is expected that changes arising from the consultation will be implemented in the Finance Act 2012 and be effective from Royal Assent (summer 2012).
The UK REIT market currently consists of 21 REITs, 19 of which are FTSE listed.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
UK	18	30,0	30,9	5,4%

Top five UK-REITs

Company Name	Market cap (€m)	Sector type
Land Securities Group PLC	7,550	Office, Others, Retail
British Land Co PLC	5,931	Industrial, Leisure, Office, Retail
Hammerson Plc	3,791	Office, Retail
Capital Shopping Centres Group	3,666	Retail
Segro	2,559	Industrial, Logistic, Office

Riverside House – IVG (London) 14-storey 15,100 sqm building with spectacular spinnaker facade a landmark.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Notice must be filed prior to conversion. - Certain conditions for REIT status.

A notice must be filed prior to conversion. In order to become a UK REIT, a group of companies has to confirm that the parent company:

- is UK resident and not resident elsewhere;
- has shares listed on a recognised stock exchange;
- is not an open-ended investment company;
- is not a close company;
- has only one class of ordinary shares (i.e., non-voting fixed rate preference shares which may be convertible are permitted);
- has no performance-related loans and
- that the parent company will produce financial statements.

At present two tax returns (relating to property rental business and residual business of the UK REIT group) and three sets of financial statements (which demonstrate that the UK REIT group fulfils the various qualifying tests and conditions) need to be filed annually.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Listed closed-ended company.	GBP 50,000 (if listed in UK).

Legal form

The parent company of a UK REIT must be a closed-ended company which is listed on a stock exchange which is recognised by the UK tax authorities. However, there is no requirement as to where it is incorporated. It must be tax resident in UK and must not be tax resident in another country.

Subsidiary entities can be tax resident outside the UK, but such entities are subject to the local tax regime in that overseas jurisdiction and may suffer tax.

Management may be internal or external.

Minimum share capital

The normal listing requirements in respect of share capital are applicable. A UK REIT may only have one class of ordinary shares, but it can also offer non-voting preference shares, convertible non-voting preference shares, and convertible loan stock.

A UK company that lists on the UK stock exchange must have a share capital of at least GBP 50,000.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
- Not a 'close company'. - A single corporate shareholder may not own 10% or more of the shares/voting rights. - No restriction on foreign shareholders.	Yes, but can be on any Stock Exchange recognised by the UK tax authorities.

Shareholder requirements

A UKREIT cannot be a 'close company'. A company is "close" where it is controlled by five or fewer shareholders. A listed company will not be close if at least 35% of the shares are owned by the public. "Public" for this purpose includes shareholders owning less than 5% and pension funds (who do not provide pensions for the employees of that REIT) but excludes non-close companies.

No corporate shareholder, wherever tax resident, should hold 10% or more of the shares or voting rights in a UK REIT, otherwise a penalty tax charge will arise if it pays any dividend to such a corporate shareholder without having taken reasonable steps to prevent the payment of such a dividend. UK REITs therefore usually have restrictions in their Articles of Association that prevent distributions from being made to shareholders who hold 10% or more of share capital or voting rights and allow a UK REIT to force shareholders to sell stock if they are in danger of breaching the 10% limit.

There are no restrictions on foreign shareholders.

Listing requirements

Listing on the LSE or any other 'recognised stock exchange' is required. HM Revenue & Customs maintain a list of recognised stock exchanges across the world. The UK Alternative Investment Market (AIM) is not a recognised stock exchange for these purposes.

2.4 Asset level / activity test

Restrictions on activities / investments
- At least 75% of a REIT's net profits must be derived from the property rental business (measured using financial statements). - At least 75% of a REIT's assets must be used in the property rental business (measured using financial statements). - The REIT must hold at least three separate assets. - No one asset may exceed 40% of the total assets. - May invest outside the UK in real estate wherever located.

Restrictions are imposed by the balance of business tests, which limit the amount of investment permitted in non-rental generating assets and the amount of non-rental income. However, other activities are permitted subject to these restrictions. Essentially, only rental profits and gains realized on the disposal of properties used in the UK property rental business will be exempt from tax.

The balance of business tests state that:

- at least 75% of a UK REIT's net profits must be derived from the property rental business;
- at least 75% of a UK REIT's assets must be used in the property rental business.

A UK REIT must hold at least three separate assets directly (note that interests held via partnerships would not count for this test), and no one asset can exceed 40% of the market value of the total portfolio. (Note that a single property which can be multi-tenanted, e.g. a shopping centre will count as more than one asset). Qualifying properties may be residential or commercial and in any location worldwide.

Owner occupied assets (that is property used by the UK REIT, e.g. a head-office building) are not qualifying rental assets for the purposes of the balance of business test. Certain land rich groups were seeking to use planning to structure group businesses in such a way that the operating companies could claim tax relief for rents paid to a group rental company which was not taxed on the rent. The restructuring relied on treating the operating company as outside the UK REIT group for tax purposes only; therefore there was no need to separate economic ownership of the operating and rental businesses. Anti-avoidance legislation was introduced by the Finance Act 2009 to counter such tax planning.

Development by the UK REIT for investment on its own account is permitted, and is generally included within the property rental business unless development costs exceed 30% of the acquisition cost (or the property's value at the time of entry to the UK REIT regime if higher) and the property is sold within three years of completion (see 3.1). Property trading is permitted but is taxable, and falls outside of the property rental business for the purpose of the balance of business restrictions.

The parent company must own at least 75% of a subsidiary company for the subsidiary to be a member of the UK REIT group; such members can in turn own at least 75% subsidiaries but the parent must ultimately more than 50% of the shares of all the subsidiaries in a group. Where a UK REIT has the right to at least 40% of the profits of a joint venture company then the proportion of rental exempt income and gains that are attributable to the UK REIT will be exempt from tax, if an election is made.

Where UK REITs are partners in a partnership with share of 20% or less , the share of assets and income are treated as outside the ring fence for the balance of business tests although the income and gains will be treated as tax-exempt. Similar provisions apply where the UK REIT has an interest of 20% or less in a unit trust such as a Jersey Property Unit Trust which is a 'Baker trust' (where the income belongs to the investor but the capital is under the control of the trustees).

Hammerson, (Threadneedle Street London) Construction was completed in January 2009, the building provides office accommodation totallying 19,900 sqm. It forms part of the site previously occupied by the London Stock Exchange.

2.5 Leverage

Leverage
Interest cover test.

Borrowing of money is limited by the Financing Cost Ratio. The ratio is defined as "property profits" that is, profits of the property rental business before a deduction for interest, losses from a previous accounting period and tax depreciation (capital allowances) divided by the property financing costs (that is finance related to the property rental business which is broadly defined and includes, for example, costs incurred on breaking debt). The property profits must be at least 1.25 times the property financing costs. Where income cover is less than 1.25 times, a tax charge will arise based on the amount of the property financing costs that cause the ratio to fall below 1.25 times.

As the test looks only at the relationship between rental income and interest costs, a sudden unexpected increase in interest rates or a drop in income may result in a tax penalty. HMRC has the power to waive this penalty charge if the UK REIT is in severe financial difficulty, the ratio is breached due to unexpected circumstances and the UK REIT could not reasonably have taken action to avoid the ratio falling below 1.25 income cover.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of tax-exempt profits.	Not included in the distribution obligation.	Within 12 months of the end of the year.

A distribution out of the property rental business of the REIT (rental income and capital gains) is called a Property Income Distribution - a 'PID'.

Operative income

90% of the income from the property rental business must be distributed within 12 months of the end of the accounting period (however profit from the residual business income does not have to be distributed). Measures were introduced in Finance (No 3) Act 2010 to permit REITs to issue stock dividends (i.e. to issue new shares to shareholders) in lieu of cash dividends which would be treated as qualifying distributions.

Capital gains

Gains arising from the disposal of real estate used in the property rental business do not have to be distributed. However, if within two years of disposal the cash receipt is not either reinvested or distributed, it will count as a bad asset for the balance of business asset test.

2.7 Sanctions

Penalties / loss of status rules
Tax penalties and the potential loss of the REIT status.

The legislation makes provision for penalties or the withdrawal of UK REIT status where certain requirements are breached. These provisions have been rewritten in the CTA 2010, are complex and are subject to new guidance which has not yet been published. There are differing remedies and time limits, plus some breaches may occur a number of times whereas others may be only breached once before UK REIT status is lost. Consequently, care needs to be exercised to determine how a particular breach may be dealt with. Here is an outline of the rules which will be applied.

Where the parent company of a group UK REIT or a single company UK REIT loses its stock exchange listing or becomes close, then its UK REIT status may be withdrawn with effect from the end of the previous accounting period. In certain circumstances there will not be a breach, for example:

- if the loss of a stock exchange listing arises from the takeover by another group or single UK REIT or
- where the group UK REIT or single company UK REIT becomes close as the result of the action of others, but this is remedied by the end of the next accounting period.

Failure to meet the property rental business tests (at least three properties must be held by the REIT and no property can be worth more than 40%) is a breach which can occur more than once.

Failure to distribute 90% of the taxable profits of a property rental business is a breach. Where the profit distribution obligation is not complied with within three months after the point at which the group's results are agreed with HMRC, then a tax charge (currently 26% but reducing to 23% by 2014) will arise on the UK REIT and will be based on the shortfall of the distribution.

It is possible to breach the balance of business test for assets at the beginning of the first accounting period of a UK REIT so long as the test is complied with at the beginning of the next accounting period. In this case an additional entry fee of 2% is levied which is based on the increase in market value between those qualifying assets held at the end of the accounting period and those held at the beginning of the accounting period.

Thereafter, failure to meet the 75% assets test is assessed as a minor breach if more than 50% of the assets are qualifying assets at the beginning of the accounting period, but a major breach if less than 50% of the assets are qualifying assets at that time. Similar provisions apply to the balance of business tests when considering what proportion of the UK REIT's income is rental income.

The UK REIT will incur a 20% tax charge on the amount equivalent to a PID paid to a corporate shareholder which holds 10% or more of the shares in UK REIT unless the REIT has taken steps to discourage such a level of investment (e.g. by amending the company's Articles of Association to prevent such distributions).

There are special rules to deal with multiple breaches which are too detailed to deal with here, but note that in the event of breaches of a number of differing requirements in a ten-year period, HMRC can require the group UK REIT or single company UK REIT to leave the REIT regime.

HMRC have significant powers which permit them to make a UK REIT group or single UK REIT company leave the UK REIT regime and can also levy additional taxes if they consider that the UK REIT has entered into arrangements with the sole or main purpose of obtaining a major tax advantage.

Where HMRC issue a notice to leave the UK REIT regime, the UK REIT rules will cease to apply from the start of the current accounting period and for future years; however the taxpayer can appeal.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
- Income from a property rental business is exempt from corporation tax. - Residual business income is taxable at the highest rate of corporation tax (currently 26%).	Gains realised on disposals of assets used in the property rental business are not subject to tax.	- In principle, no withholding tax levied on distributions that are made out of the residual business income. - Distributions out of the property rental business profits (PIDs) are generally subject to 20% withholding tax unless the recipient is a UK corporate, UK charity or UK pension fund. - Withholding tax suffered by a UK REIT on its property rental income from directly held non-UK real estate will be deducted in the calculation of the PID. Withholding taxes suffered on distributions in respect of shares will be part of the REIT's residual business and tax credit relief may be available.

Current income
Income from the property rental business is not subject to UK corporation tax. Non rental business income (residual income) is taxable in the ordinary manner at the highest rate of corporation tax which is currently 26%. Note there was an announcement in the Coalition's first budget that CT rates will reduce to 23% by 2014. Non-exempt business includes income from dividends received from other UK REITs. The property rental business of the UK REIT is ring-fenced for corporation tax purposes, which means that it is not possible to offset profits and losses of the property rental business against profits and losses of its residual activities.

Capital gains
Capital gains or losses that arise on disposal of property used in a UK REIT's property rental business are not chargeable to tax. The sale of 'developed properties' may be subject to tax if they are disposed of within three years of the completion of any development activities conducted by the UK REIT. Any property whose cost of development (where the development is conducted by the UK REIT) exceeds 30% of the fair value of the property's acquisition cost (or value at entry, if later) is deemed to be a 'developed property'. The disposal of property which is used for non-eligible business is taxable. Gains realised on property used partly for the rental business, and also for taxable business, may be partially exempt from tax.

Withholding tax
The UK does not levy dividend withholding taxes in case of a normal distribution to any investor, regardless of tax residence, but in the case of a distribution by a UK REIT out of its exempt profits (a PID), tax of 20% will be withheld by the UK REIT and paid to HMRC (although PIDs can be paid to UK companies, UK charities and UK pension funds gross). If an overseas jurisdiction levies a withholding tax on payment of a dividend to a UK REIT, the UK REIT is unlikely to be able to obtain a credit for such tax if the income is exempt in the UK. If, however, the income is taxable it may be possible for the UK REIT to credit this against the UK tax due.

Other taxes
Stamp duty, stamp duty land tax, employee taxes, uniform business rates and value added tax apply to UK REITs in the same way that they apply to ordinary property companies.

Angel Building – Derwent London (London) This is Derwent London's largest redevelopment to date. Designed by AHMM architects with elegant and robust modern detailing.

Accounting rules

A UK REIT is taxed based on UK entity accounts for each group company (either UK GAAP or IFRS). Group UK REITs are required to present financial statements under IFRS for the purposes of calculating the balance of business tests.

3.2 Transition regulations

Conversion into REIT status
Conversion charge of 2% of the gross market value of property rental business assets.

Companies entering the UK REIT regime will be subject to an entry charge equal to 2% of the gross market value of properties involved in the tax exempt business at that time. For UK tax purposes only, a new accounting period begins at the time of conversion, and the base cost of property rental assets are re-based to market value. A 2% conversion charge is levied on the gross market value of property rental business assets held at the day of conversion. This entry charge extinguishes any latent capital gains within the UK REIT at the date of conversion. The conversion charge can be spread over four years from the year of conversion into the REIT, in which case the charge increases to 2.19% based on the following percentages: Yr1: 0.5%, Yr2: 0.53%, Yr3: 0.56%, Yr4: 0.6%. (Note that where a UK REIT buys shares in additional companies post conversion, the entry charge relating to their assets has to be paid in the first year and there is no spreading of this charge).

3.3 Registration duties

Registration duties
Stamp Duty Land Tax (SDLT) of between 1% and 4% for commercial property and 5% for residential property costing over £1m. The Finance Bill 2011 introduced special rules for bulk purchases of residential property where the rate of SDLT is based on the average value of the portfolio with a minimum charge of 1% (similar rules apply within the UK REIT regime).

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Distributions out of property rental business income (PIDs) are treated as rental profits currently taxable at 26% (for a large company). - Distributions out of residual business profits (non-PIDs) will be tax-exempt . - Capital gains on disposal of UK REIT shares are taxable under normal capital gains rules.	- 20% tax on PIDs (collected by way of the withholding tax). - Higher rate tax payers pay additional tax (the amount of which depends on their personal tax position) through their tax returns. Capital gains on disposal of REIT shares taxable in ordinary manner.	- Withholding tax is deducted at 20% on PIDs to individual shareholders. - Where the distribution is a PID, there is a withholding tax exemption where the REIT has a reasonable belief that the person entitled to the PID is a UK corporate, UK charity or UK pension fund. - UK REIT shares held via a 'tax wrapper' such as an ISA can be paid gross.

Corporate shareholder

Distributions from exempt assets (PIDs) are treated as rental profits in the hands of the recipient. These are taxed at the corporation tax rate applying to that company, currently 26% for a large company. Distribution of taxed profits (distributions out of the residual business) is likely to be tax-exempt in the hands of UK corporate shareholders.

Distributions of gains from UK REITs are taxed as if they were a distribution of tax-exempt income.

Capital gains on disposal of shares of a UK REIT are taxable under normal capital gains tax rules.

Individual shareholder

PIDs are taxed as rental profits received from direct property, whether the PID represents distributed rental profits or capital gains. The shareholder will be taxed at either 20% (already levied with the withholding tax) or at 40% or 50% for higher rate taxpayers and additional higher rate tax payers. In this case the shareholder will pay 20% via withholding tax and the remaining amount through his tax return. Individuals are not entitled to an imputed tax credit, as is the case with normal dividends. Distribution of taxed profits (distributions out of the residual business) will be taxable at the individual's marginal tax rate with a 10% tax credit.

Capital gains on disposal of UK REIT shares are fully taxable in the ordinary manner. Note that the current rate of tax on capital gains for individuals is 18% rising to 28% for higher rate taxpayers.

A share buy-back will be a disposal for capital gains purposes and taxable in the ordinary manner.

Withholding tax

Withholding tax is not deducted where a PID payment is made to a UK corporate shareholder, UK charity or a UK pension fund. A withholding tax of 20% is levied on PIDs to individual shareholders by the UK REIT.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- 20% final withholding tax for PIDs. - Disposal of shares in a UK REIT is outside the scope of UK capital gains tax.	- 20% final withholding tax for PIDs. - Disposal of shares in a UK REIT is outside the scope of UK capital gains tax.	- Tax treaty relief available if claimed following receipt. - Will be treated as a dividend distribution under most treaties. - Parent-Subsidiary Directive not applicable.

Corporate shareholder

Foreign shareholders receive dividends from the tax-exempt business (PIDs) net of basic rate income tax (20%).

Individual shareholders

Foreign shareholders receive dividends from the tax-exempt business (PIDs) net of basic rate income tax (20%).

Withholding tax

A corporate or individual non-resident shareholder suffers withholding tax of 20%. Treaty relief can be claimed retrospectively. The PID is only taxed as rental income in the UK; it is likely that the PID will be treated as a dividend distribution under most treaties. The EU Parent – Subsidiary Directive is not applicable (see under no. 2.3 above).

5 Broadgate - British Land - Building targeted to achieve a BREEAM Excellent 2008 rating and exceed the 2006 Building Regulation Part L2A carbon emissions requirement. Lon Architect Ken Shuttleworth

Bishopsgate – Great Portland Estates & Brookfield Properties (London) – The development at 100 Bishopsgate will provide 955,300 sq ft of office, retail, restaurant and public space – functional, simple, and highly efficient.

5 Tax treatment of foreign REITs and its domestic shareholders

Foreign REIT	UK Corporate shareholder	Individual shareholder
Taxed under normal UK tax rules.	May be tax exempt	20% or 40% or 50% tax on foreign income.

Foreign REIT

A REIT resident outside the UK and investing in UK property will be taxable under normal UK rules as a non-resident landlord with tax at 20% on income only and not capital gains.

Corporate shareholder

A foreign REIT distribution of income from property in the UK to a UK corporate shareholder is likely to be treated as a normal dividend from an overseas company. This will depend on structure of the foreign REIT and may benefit from tax exemption.

Individual shareholder

A foreign REIT distribution of income from property in the UK to a UK individual shareholder is likely to be treated as a normal dividend (taxable at 20% or 40% or 50%) from an overseas company (this will depend on the structure of foreign REIT). ■

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Global REIT Survey 2011

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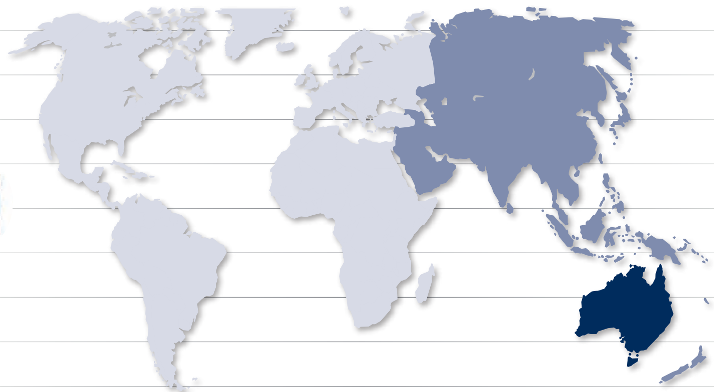
Asia

Australia

(LPT)



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EPRA REPORTING
European Public Real Estate Association

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1 General introduction

	Enacted year	Citation	REIT type
Unit Trust (esp. listed Property Trust); Public Trading Trust.	1985	- (Public) Unit Trust and Equity law. - 'Trust Income', Division 6, ITAA 1936. - 'Public Trading Trusts' Regime, Division 6C, ITAA 1936. 'Managed investment trust', Subdivision 12-H of Schedule 1 of the Tax Administration Act 1953.	Trust type

This chapter is current as at May, 2011.

Fixed trusts have traditionally been the preferred vehicle for holding real estate investments in Australia. They are typically set up as a listed (public) or unlisted fixed unit trust (i.e. investors subscribe for units). Unit trusts are generally treated as transparent for Australian tax purposes. One of the key tax benefits arising for the investor from a trust structure is that distributions from the trust retain their tax attributes ('flow through' entity), making an investment via a fixed trust generally comparable in most respects to a direct interest in the real estate. Unit trusts stapled to company structures are common in Australia.

Unit trusts are legally established under a Trust Deed pursuant to the general principles of the law of Equity. Certain public unit trusts may also qualify as Managed Investment Schemes regulated under Corporations Law. Division 6 of the ITAA 1936 (Trust Income rules) regulates the taxation of income derived by a trust, whilst Division 6C of the ITAA 1936 (Public Trading Trust Regime) assesses some trusts effectively as companies (depending on the type of activity undertaken by the trust). Distributions to non-Australian investors from a unit trust that is classified as 'managed investment trust' ("MIT") are also taxed under the new withholding tax rules contained in Subdivision 12-H of Schedule 1 of the Tax Administration Act 1953 applicable from the 2008/2009 income year.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Australia	57	-1,8	56,4	9,9%

Top five REITs

Company Name	Market cap (€m)	Sector type
Westfield Group	14.046	Retail
Westfield Retail Trust	5.695	Retail
Stockland	5.554	Industrial, Office, Residential, Retail, Retirement Housing
GPT Group	4.268	Industrial, Office, Retail
Goodman Group	3.843	Industrial, Land, Office

2 Requirements

2.1 Formalities / procedure

Key requirements
No special legal or regulatory requirements. Certain requirements to benefit from withholding tax concessions and proposed capital account election measures under the new MIT rules.

A trust is established pursuant to a trust deed, which sets out the terms of the trust.

No special legal or regulatory requirements need to be satisfied in order for a property trust to be established. Property trusts whose units are offered to the public may be subject to regulatory requirements such as the Managed Investment Scheme rules, which include that the trust must be managed by a corporate trustee/responsible entity/fund manager. However, these requirements do not impact on the tax treatment of the trust as a 'flow through' entity.

MIT requirement

Certain withholding tax concessions apply to distributions to non-Australian investors in a MIT (refer 4.2 below).

Under the MIT definition (applicable from July 01, 2010), a trust will qualify as a MIT if it:

- has a relevant connection to Australia;
- is a Managed Investment Scheme ("MIS") within the meaning of the Corporations Act 2001 that either:
  - is registered under the Corporations Act 2001 ("registered MIS"); or
  - satisfies a wholesale test ("wholesale trust") and satisfies certain licensing requirements;
- carries out a substantial proportion of its investment management activities in Australia in respect of its Australian assets
- is not be a 'trading trust' (i.e. the trust must not carry on, or control, a trading business)
- satisfies the relevant 'widely-held' requirement (refer below).

The widely-held requirement test is complex. The test will be easier to satisfy where ownership interests (even up to 100%) are held by 'eligible widely-held investors', which include:

- life insurance companies;
- complying superannuation funds with at least 50 members;
- foreign superannuation funds (indefinitely continuing provident, benefit, retirement, or superannuation funds that are established outside Australia, managed and controlled outside Australia and have a majority of non-Australian resident members) with at least 50 members;
- other widely held managed investment schemes (or foreign entities with a similar status to a managed investment scheme under a foreign law relating to corporate regulation) with at least 50 members.
- foreign collective investment vehicles which have at least 50 members and are recognised under a foreign law as being used for collective investment where member contributions are pooled together and members do not have the day-to-day control over the operation of the entity (this is a re-write of the existing category of a foreign entity with a similar status to a managed investment scheme under a foreign law);
- certain tax-exempt foreign government pension funds (or their wholly-owned subsidiaries);
- certain sovereign wealth funds;
- entity wholly-owned by an Australian government agency; and
- entity of a kind listed in specified regulations.

In certain circumstances, trusts that satisfied the MIT definition up to June 30, 2010 may not satisfy the amended MIT definition (applying from July 01, 2010 and which is outlined above). As such, a transitional rule is proposed to provide transitional relief until 2017 for certain trusts that satisfy the existing MIT definition, but fail the proposed amended MIT definition.

Regime MIT requirement (proposed rules)

Subsequent to an announcement in the Australian 2011-12 Federal Budget, a qualifying MIT may irrevocably elect to apply the new MIT tax framework from July 01, 2012. It must satisfy the qualifying criteria at all times (subject to inadvertent or minor circumstances where it has taken reasonable steps to rectify the failure within a reasonable time). A trust that has made this election is a 'Regime MIT' and is expected to satisfy the following requirements:

a. the trust must satisfy a 'widely held' test (this is likely to be similar to the proposed amended MIT definition for MIT withholding tax purposes);
b. units in the trust must have clearly defined rights; and
c. for the attribution regime to apply – the trust must make an election.

At the date of writing, no draft legislation has been released though prior consultation with industry bodies is expected.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Unit trust	$1

Legal form
A unit trust generally qualifies for 'flow through' tax treatment. The 'flow through' treatment is not limited to resident trusts.

A non-resident entity will be treated as transparent for tax purposes provided it can be properly characterised as a trust for Australian tax purposes.

However, a trust which is treated as a public unit trust (e.g. listed or at least 50 investors or 20%-owned by superannuation funds) does not qualify for 'flow through' treatment if it is carrying on ineligible trading activities.

The term 'property trust' used with respect to Australia in the remainder of this report is a reference to such a fixed unit trust unless otherwise specified.

Minimum initial capital
Apart from the requirement that there must be at least nominal corpus of the trust estate, there is no minimum initial capital required.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
No requirements	No

Unit holder requirements
No requirements exist with respect to the profile of the investor.

Listing requirements
Listing is not mandatory in Australia to obtain 'flow through' status. However, large property trusts (known as 'listed managed investments' or 'listed property trusts') are typically listed in Australia for commercial purposes. It is also easier to qualify as a MIT if the trust is listed on Australian Stock Exchange.

A number of requirements must be met in order to be listed on the Australian stock exchange, including among others minimum net tangible assets or profit requirements and minimum unit-holders numbers and parcel value requirements.

2.4 Asset levels / activity test

Restrictions on activities / investments
- Public unit trusts and MITs investing in land, must do so for the purpose, or primarily for the purpose, of deriving rent (eligible investment business). - Public unit trusts that carry on a trading business, i.e. a business that does not wholly consist of eligible investment business, are not accorded 'flow through' treatment and unit trusts that carry on a trading business will not qualify as a MIT. - May invest in a single property.

There exist no restrictions on the type of activities that can be undertaken by a property trust, unless the trust qualifies as a public unit trust (broadly, unit trusts that are listed, have at least 50 unit holders or 20% of the units are held by superannuation funds and certain exempt entities) or wishes to qualify as an MIT. Unit trusts, other than public unit trusts and MITs, can engage in trading activities, e.g. managing and developing real estate, without losing the benefits of 'flow though' treatment.

Public unit trusts must only carry on an 'eligible investment business' in order to be eligible for 'flow through' treatment. "Eligible investment business" covers investing in 'land' for the purpose (or primarily for the purpose) of deriving rent (except for profit-based rentals derived from land), and/or investing or trading in various financial instruments including units in unit trusts, shares in companies (including foreign hybrid companies), loans, and derivatives. Since the 2009 income year, the definition of 'land' has included fixtures on the land, and certain moveable property (e.g. chattels) customarily supplied, being property that is incidental and relevant to the renting of the land and ancillary to the ownership and utilisation of the land. Ineligible activities are regarded as trading activities.

Since the 2009 income year, a safe-harbour rule has operated to broadly allow a trust to derive up to 25% of its income from investments in land (excluding capital gains from asset realisation) in the form of trading income (i.e. not rent). Where a trust does not meet this safe-harbour test, it can assess whether it is investment in land for the purpose, or primarily for the purpose of deriving rent under the existing law. Furthermore, a 2% safe-harbour allowance for non-trading income (at the whole of trust level) reduces the scope for inadvertent minor breaches of the 'eligible investment business'. The trustee of a unit trust is taken not to carry on a trading business in a year, if no more than 2% of the gross revenue of the unit trust is income other than from 'eligible investment business'. However, this non-eligible revenue must be from carrying on a business that is incidental and relevant to the 'eligible investment business'.

In summary, provided the public unit trust carries on primarily (i.e. predominantly) eligible passive land investment activities, and non-eligible activities are incidental and relatively insignificant, the public unit trust should retain the 'flow through' treatment.

If the public unit trust carries on a trading business, it will be taxable as if it was a company (at the company rate of 30%) and its unit holders were shareholders.

A public unit trust may not also control an entity that carries out ineligible trading activities. As a consequence, it is common for Australian property trusts to form part of a stapled security with a passive trust undertaking a range of activities relating to passive property holdings (i.e. management, redevelopment, funds management etc) and a stapled company or trading trust actively participating in property development activities. This effectively allows the management function to be 'internalised'.

A property trust may invest in a single real property asset

A property trust can hold property investments offshore. Property trusts can hold investment properties indirectly through SPVs. However, the key benefits arising for an investor from a trust structure (i.e. where the benefits of direct ownership are replicated) may be lost where the interposed SPV does not qualify for look-through tax treatment.

2.5 Leverage

Leverage
Unlimited, but the extent to which interest is deductible is limited by the general thin capitalisation rules.

There are no specific gearing limits for unit trusts under Australian tax law. The general thin capitalisation rules may apply however, to effectively impose a gearing limit where the property trust is controlled by non-resident unit holders and/or if the property trust controls a foreign entity. Exemptions from the thin capitalisation rules apply where total debt deductions (including associates' deductions) are AUD 250,000 or less, or where an Australian outbound investor that is not foreign controlled has average Australian assets (including its associates' assets) that represents 90% or more of its average total assets (including its associates' assets).

Subject to the thin capitalisation rules, a tax deduction should be available for interest expense incurred in connection with loans used to acquire the income yielding property. Breaches of thin capitalisation rules will result in a proportion of interest deductions being denied.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
Typical distribution of 100% of trust's income as defined in the trust's constitution.	To the extent included in the trust's income, any capital gains realised on disposal of property, including interests held in other sub-trusts or other entities.	Annually or semi annually

There are no prescribed minimum distribution rules. However, in order to ensure that the trustee is not subject to tax on the property trust's taxable income at the top marginal tax rate (currently 45% + 1.5% Medicare levy (if applicable)), the unit holders must be 'presently entitled' to all of the trust's trust law income at year end. Property trusts therefore typically distribute their trust income (including tax deferred amounts) on at least an annual basis, and listed trusts distribute generally on a quarterly basis.

The current 'present entitlement' system of trust taxation is proposed to be replaced by an elective 'attribution' system effective from 1 July 2012 for trusts that qualify as Regime MITs. It is possible that the 'attribution' system may also be extended to additional trusts in the future. Under the proposed 'attribution' system, provided that the trustee allocates all of the taxable income of the trust to the unit holders on a 'fair and reasonable basis', the trustee will not be subject to tax on the trust's taxable income (rather, the unit holders will be assessed on the taxable income of the trust that is allocated by the trustee). At present, no legislation has been released for consultation by the Australian Government.

2.7 Sanctions

Penalties / loss of status rules
N/A

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Not taxable in the hands of the trustee provided the unit holders are presently entitled to the trust's income at the end of the income year, otherwise trustee taxed at highest marginal rate.	- Tax treatment of capital gains similar to that of ordinary income. - 50% CGT discount may be available.	N/A

Current income and capital gains

Provided the unit holders are presently entitled to the property trust's trust income (as calculated under the trust deed) at year end, the trustee is not liable to tax on the trust's taxable income, including capital gains. Income derived by the property trust will generally retain its character in the hands of the unit holders as it is the unitholders themselves that are subject to tax according to their own specific circumstances

If there is a portion of property trust's trust income to which unit holders are not presently entitled at year-end, then the trustee is subject to tax on the same proportion of the trust's taxable income at the top marginal tax rate (currently 45% + 1.5% Medicare levy (if applicable)). Where the taxable income includes capital gains, the trustee may be able to apply the 50% CGT (capital gains tax) discount.

As outlined above, under the proposed 'attribution' system (proposed to apply from July 01, 2012 for certain eligible trusts), the taxable income of the trust will not be taxable in the hands of the trustee provided that the trustee has allocated all of the taxable income of the trust to the unit holders on a 'fair and reasonable basis'.

Tax Losses

Tax losses are quarantined in the trust and cannot be distributed to unit holders. They can be carried forward for offset against future income and capital gains subject to satisfying the trust loss recoupment tests, the most important of which is a greater than 50% continuity of ownership test. A trust that does not satisfy the requisite trust loss tests cannot offset those income losses in future years. There is no loss carry-back. Capital losses can only be offset against capital gains derived by the trust. There are no loss recoupment rules that need to be satisfied in order to utilise capital losses.

Withholding tax

An Australian resident property trust is generally not subject to any domestic withholding tax on income earned in Australia.
Tax offsets for foreign withholding tax deducted from foreign income derived by the property trust will attach to distributions of foreign income made by the trust to unit holders. The relevant portion of the foreign tax offsets will be available for offset against tax on foreign income of the property trust if the trustee is subject to tax on that amount as discussed above.

The property trust may have certain withholding tax and other tax obligations in respect of the net income distributed to unit holders. These are discussed in section 4 below.

Accounting

Australian LPTs are required to prepare accounts under IFRS.

Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
- No duty on capital contributions. - Stamp duty of up to 6.75% on the transfer of property or transfer of units in unlisted property trust. - Generally no duty on transfers of units in listed trusts.

There is no duty on capital contributions.

Stamp duty of up to 6.75% (depending on the State or Territory) will be levied on the higher of market value or consideration paid on the transfer of property or transfer of units in unlisted property trusts.

Generally, there is no duty on transfers of units in a listed trust. However, duty may be payable if 90% or more of the units are acquired in a listed REIT that holds land in Western Australia, New South Wales or Northern Territory. Queensland and South Australia will also levy duty on such acquisitions from July 01, 2011.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- 30% tax on share of the trust's worldwide taxable income, including capital gains. - Capital gains on disposal of units taxed at 30%.	- Tax at rates of up to 46.5% on share of the trust's worldwide taxable income. - 50% CGT discount may be available to individuals on capital gains distributed and on disposal of units.	- There is no final withholding tax imposed. - Trustee may pay tax on behalf of beneficiary in -certain circumstances. - Withholding at 46.5% is required where an Australian tax file or business -number is not quoted.

Corporate unit holder

A resident corporate unit holder is subject to tax on its share of the property trust's worldwide taxable income, including capital gains, at the current corporate tax rate of 30%.

'Tax deferred' distributions, being distributions in excess of the property trust's taxable income (e.g. an amount representing plant and equipment depreciation), are only taxable to the extent that the amount exceeds the cost base of the unit holder's investment. The unit holder's CGT cost base is otherwise reduced by the tax deferred amount, which effectively defers taxation until such time as the units are disposed of.

Capital/revenue gains realised on the disposal of units in the property trust are subject to tax at the current corporate tax rate of 30%.

Individual unit holder

An individual unit holder is subject to tax at the prevailing tax rate of up to 46.5% on its share of the property trust's worldwide taxable income. However, to the extent that the trust's taxable income is made up of capital gains, the unit holder may be entitled to a 50% CGT discount.

'Tax deferred' distributions, being distributions in excess of the property trust's taxable income (e.g. an amount representing plant and equipment depreciation), are only taxable to the extent that the amount exceeds the cost base of the unit holder's investment. The unit holder's CGT cost base is otherwise reduced by the tax deferred amount, which effectively defers taxation (in the form of a higher capital gain) until such time as the units are disposed of.

Capital gains realised on the disposal of units in the property trust may also be eligible for the 50% CGT discount. No discount is available for revenue gains. The trustee may pay tax on behalf of a beneficiary in certain limited circumstances.

Withholding tax

Withholding from property trust distributions or from a present entitlement to trust income is required at the rate of 46.5% where an Australian tax file number (TFN) or Australian business number (ABN) or other exception is not quoted to the property trust. Unit holders are entitled to a tax credit for the amount withheld.

4.2 Foreign unit holder

	Corporate unit holder	Individual unit holder	Withholding tax
Trust is not a MIT.	- Non-resident unit holders are subject to Australian tax at corporate tax rate of currently 30% on their share of the trust's taxable income that is attributable to sources within Australia. - Capital gains on non real property are tax-exempt.	- Non-resident individual unit holders are subject to Australian tax on a progressive scale, starting at 29% on their share of the trust's taxable income that is attributable to sources within Australia. - Capital gains on non-real property are tax-exempt and taxable capital gains may be eligible for a 50% discount.	- Dividend and interest paid to non-resident unit holders is subject to a final withholding tax in accordance with domestic rules/treaty rules, on dividends or interest.

Trust is a MIT.	**- Capital gains on non-real property are tax-exempt.** - Dividend and interest distributed to non-resident unit holders is subject to a final withholding tax in accordance with domestic rules/treaty rules, on dividends or interest. - For other type of Australian source income, the rate of withholding tax depends on which country the foreign investor is resident in. - For foreign investors in a country with which Australia has an effective exchange of information (EOI) on tax matters[1], the income is subject to a 7.5% final withholding tax for distributions in the 2010-11 income year and beyond. - For foreign investors in a country with which Australia does not have an effective EOI, the income is subject to a final withholding tax at the rate of 30%.

General position
In general, for non-resident beneficiaries that are presently entitled to the property trust's trust income, the trustee will be required to deduct tax on Australian-sourced income distributed, other than income which is subject to a final withholding tax (e.g. interest/dividend and MIT withholding tax, as withholding tax is a final tax) and certain capital gains that are not in respect of 'taxable Australian property'. This tax deducted is not a final tax.

Non-MITs
Tax is deducted in accordance with the type of unit holder - companies at 30%, individuals on a progressive scale starting at 29%, and non-resident trustee beneficiaries at 45%. The unit holder is required to lodge a tax return in respect of these trust distributions and can claim a deduction for certain costs incurred in deriving this income. The tax deducted by the trustee may be claimed as a tax credit with any excess tax deducted by the trustee refunded to the unitholder.

Managed Investment Trusts
A concessional withholding tax regime applies to distributions made by MIT of taxable income attributable to Australian sources to all types of non-residents including trustees. The new regime replaces the non-final 30% withholding regime that formerly applied.

For Australian source income, the rate of withholding tax depends on the country in which the foreign investor is resident.

- For foreign investors residing in a country with which Australia has an effective exchange of information (EOI) on tax matters[1], the income is subject to a 7.5% final withholding tax for distributions in the 2010-11 income year and beyond.
- For foreign investors in a country with which Australia does not have an effective EOI, the income is subject to a final withholding tax at the rate of 30%.

Dividend, interest and royalty income will generally continue to be excluded from MIT withholding tax and subject to the specific withholding tax rules. Capital gains on assets other than 'taxable Australian property' will also continue to be generally excluded (discussed below).

Tax deferred distribution / CGT
'Tax deferred' distributions, being distributions in excess of the property trust's taxable income (e.g. an amount representing plant and equipment depreciation), may only be taxable to the extent that the amount exceeds the cost base of the unit holder's investment. The unit holder's CGT cost base is otherwise reduced by the tax deferred amount, which effectively defers any taxation (in the form of a higher capital gain) until such time as the units are disposed of.

Trustees of property trusts that distribute capital gains on assets that are not 'taxable Australian property' are not required to withhold tax from that amount as foreign resident beneficiaries will not be taxable on the gains distributed. Gains from investments held by the trust in other trusts are eligible for the exemption provided at least 90% of the market value of CGT assets of

[1] The 43 countries with which Australia has an effective EOI on tax matters are: Antigua and Barbuda, Argentina, Bermuda, British Virgin Islands, Canada, China, Czech Republic, Denmark, Fiji, Finland, France, Germany, Gibraltar, Guernsey, Hungary, India, Indonesia, Ireland, Isle of Man, Italy, Japan, Jersey, Kiribati, Malta, Mexico, Netherlands, Netherlands Antilles, New Zealand, Norway, Papua New Guinea, Poland, Romania, Russia, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Taipei, Thailand, United Kingdom, United States of America, Vietnam. It is expected that the following countries will have effective EOI as at July 01, 2011: Belize, the Cayman Islands, the Bahamas, Monaco, San Marino, Singapore, St Christopher & Nevis, and St Vincent & the Grenadines

the other trust (or trusts in which the other trust has an interest), are not 'taxable Australian property' at the relevant CGT event time. Taxable Australian property includes real property held directly or indirectly that is situated in Australia, therefore it usually follows that capital gains distributions from Australian property trusts remain taxable.

Non-residents will only be taxable on capital gains realised on the disposal of units in an Australian resident property trust if the unit holder held at least 10% of the units in the trust, and more than 50% of the market value of the assets of the trust comprises Australian real property or interests in other entities whose assets are principally Australian real property.

Capital election requirement

Further to the announcement made in the 2009/10 Federal Budget, the Australian Government introduced new MIT capital account election rules into Australia's Tax Act. Broadly, under the new deemed capital rules, Australian MITs (this definition is broadly the same as the MIT definition for MIT withholding tax purposes with a few exceptions) will be entitled to make an irrevocable election to apply the CGT treatment to eligible assets disposals from the first income year commencing on or after the 2008/09 year. If the trust makes a valid election, certain assets (broadly, land, shares in companies and units in unit trusts) are deemed to be held on capital account and therefore disposal of these assets may be eligible for the capital gains tax discount and exemption for non-residents (where assets are 'non-taxable Australian assets'). If no election is made, the assets will be deemed to be held on revenue account (with the exception of real estate which will be taxed according to the ordinary capital/revenue distinction). The new concessions will also apply to unit trusts 100% owned and controlled by MITs if the trust are eligible for 'flow through' treatment (i.e. carry on only an 'eligible investment business').

Other Withholding Taxes

Dividend and interest income paid to non-resident unit holders is subject to a final withholding tax in accordance with domestic rules/treaty rules. To the extent that the income has been subject to final Australian withholding tax or would have been subject to withholding tax had an exemption not applied, no further tax is levied.

Withholding from other property trust distributions (or from a present entitlement to other trust income) is required at the rate of 45% where an Australian tax file number (TFN) or Australian business number (ABN) or other exception is not quoted to the fund. Unit holders are entitled to a tax credit for the amount withheld. Amounts that have tax withheld under the "managed investment trust" withholding tax provisions discussed above are exempted from this requirement.

5 Tax treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Similar to Australian Trust however with modifications.	Like corporate unit holder of Australian trust.	Like individual unit holder of Australian trust.

Foreign REIT

Foreign REITs are taxed on Australian sourced income and capital gains on taxable Australian property. The taxation of a foreign REIT will depend on the type of entity the REIT is for Australian tax purposes. If the foreign REIT is a trust, the tax implications will broadly be in accordance with 3.1 and 4.2 above.

Corporate unit holder

Corporate unit holders of a foreign trust are taxed on income broadly as above with a tax offset for foreign tax paid (subject to an offset cap amount).

Individual unit holder

Individual unit holders of a foreign trust are taxed on income broadly as above with a tax offset for foreign tax paid (subject to an offset cap amount).

Proposed reforms

The Australian Government is currently in the process of reforming the CFC rules and finalising proposed foreign accumulation fund (FAF) rules which together will replace the foreign investment fund (FIF) provisions that were repealed on July 14, 2010. Submissions have been taken from interested parties regarding the design of the proposed reforms in the exposure draft released in February this year. At this stage, draft legislation is still in early stages and there has been no published timetable for the release of further legislation. ■

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Asia

Dubai

(REIT)

Global REIT Survey 2011

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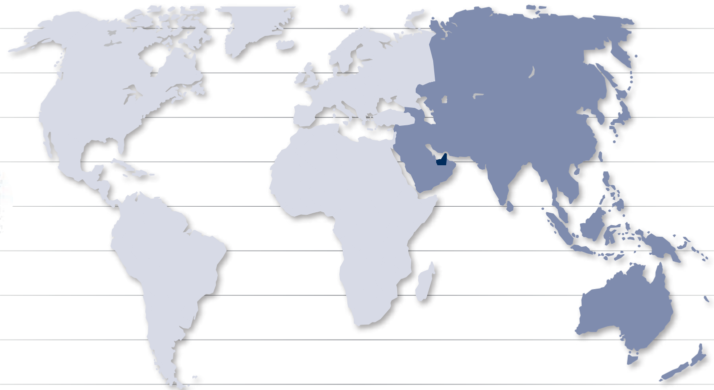

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- Requirements
- Tax treatment at the level of REIT
- Tax treatment at the unit holder's level
- Tax treatment of foreign REIT and its domestic unit holder

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1 General introduction / history / REIT type

	Enacted year	Citation	REIT type	REIT market
REIT	2006	The Investment Trust Law No. 5.	Trust type.	To be established.

The REIT was introduced with the REIT law, which is part of The Investment Trust Law No. 5 that went into effect as of August 06, 2006.

The REIT market is still in its infancy, and as of June 01, 2011 there are no publicly listed REITs in Dubai. Two developers from the UAE were planning to list REITs in Malaysia before the end of the year. The two Islamic REITs are estimated to be worth USD 672 million.

Dubai Islamic Bank, in partnership with France's Eiffel management launched the first Islamic REIT in Dubai as of December 2010. The new venture, which is called Emirates REIT, is not yet publicly listed. It is likely to be listed on the Dubai Nasdaq stock exchange by the end of 2011 and will look to undertake a dual listing by 2012, possibly in London.

The REIT is set up as a close ended investment company (CEIC) in accordance with the DIFC company regulations. The REIT will also include a sharia board to advise on sharia-related matters such as fatwas, rulings and regulations to ensure the entire operation is in accordance with the sharia law.

Furthermore, a USD 200 million Cayman Island-organised Arabian Real Estate Investment Trust, Private REIT, was jointly developed and launched by HSBC Bank Middle East and asset management company Daman.

2 Requirements

2.1 Formalities / procedure

Key requirements
Detailed information not yet available.

Legislation for the REIT structure was approved on August 06, 2006. Due to limited information available, comments on the key requirements for the REIT must be subject to a future detailed analysis.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Public Property Fund.	No

Legal form

The REIT is a Public Property Fund that is constituted as either an Investment Trust or an Investment Company (which is the same as for other Public Property Funds).

Minimum initial capital

There are no minimum initial capital requirements existing.

2.3 Unit holder requirements / Listing requirements

Unit holder requirements	Listing mandatory
Detailed information not yet available.	Yes

Unit holder requirements

Due to limited information available, comments on unit holder requirements must be subject to a future detailed analysis.

Listing requirements

Listing is mandatory. No regulations pertaining to private REIT has been instituted.

2.4 Asset level / activity test

Restrictions on activities / investments
- REITs with 100% foreign share ownership are restricted to certain designated areas in Dubai, which are available only to UAE and GCC nationals. - REITs which have majority (51%) or more by UAE/GCC ownership are exempt from any restrictions in freehold and non freehold areas. - REIT is primarily aimed at investments in income generating real property. - REITs are permitted to invest directly into real property. - REITs are permitted to develop real estate; property under development must not exceed 30% of the net assets value. - REITs must derive income from two tenants or lessees. - REITs must distribute to unit holders at least 80% of its audited annual net income. - The persons providing oversight functions in respect of the fund must determine if any: - Revaluation surplus credited to income, or - Gains on disposal of Real Property shall form part of the net income for distribution to unit holders. - REITs can only invest up to 40% of its total assets in assets other than real property or property related assets. - REITs may hold real property via an SPV (Special Purpose Vehicle) and should receive the total income generated by the SPV. - REITs should own and control a minimum 50% shareholder stake if entered into a joint property ownership arrangement. - REITs ownership of property outside Dubai and other GCC countries is bound by the same ownership restrictions mentioned above.

A REIT is permitted to develop real estate for its own account, to trade with real estate or to own residential and/or commercial real estate. The development of real estate is restricted as follows:

- An Operator of a REIT must ensure, subject to (2), that any investment made in respect of property under development whether on its own or in a joint venture is undertaken only where the REIT intends to hold the developed property upon completion.
- The total contract value of the property under development in (1) must not exceed 30% of the net asset value of the Fund Property of the REIT. Property development activities do not include refurbishment, retrofitting and renovation.
- The REIT is allowed to hold shares and/or interest in a subsidiary corporation and/or in a partnership structure. The restriction pertains to development activity. On a consolidated level, no more than 20% of the REIT's assets can be invested in development activities.

According to the Investment Trust Law No. 5 and DFSA Consultation paper No. 33, a REIT must derive income from at least two types of tenant or lessee; each type of tenant or lessee must produce 25% of the total income, and the Operator must invest no more than 40% of the fund in any one property type.

A REIT in Dubai is permitted to invest in the following assets:

- Real property which consists of land and/or buildings, whether freehold or leasehold
- Income producing property such as schools, residential buildings, office buildings, warehouses, car parks, and hospitals.
- Property related assets such as: shares, debentures, or warrants which are issued by a body corporate, substantial activity of which relates to investment in real property and certificates which confer rights with respect to such investments.
- Units in another property fund.
- Cash, government and public securities of up to 40% of its total investments.

2.5 Leverage

Leverage
Limited to 70% of the total net asset value.

In Dubai, an Operator of a REIT may borrow either directly or through its SPV up to 70% of the total net asset value of the fund.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
80% of annual net income.	Included in net income.	Annually.

Operative income
REITs in Dubai are required to distribute an amount not less than 80% of audited annual net income to the unit holders.

Capital gains
Capital gains are included in the annual net income of the REIT. For profit distribution purposes, the inclusion of capital gains is at the sole discretion of the overseeing body of the fund.

2.7 Sanctions

Penalties / loss of status rules
Detailed information not yet available.

Legislation for the REIT structure has been approved. Because of limited information available possible sanctions must be subject to a future detailed analysis.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
N/A	N/A	N/A

Current income
There are no personal taxes in Dubai. The only entities that are taxed in Dubai are companies involved in the oil & gas industry and branches of foreign banks operating in Dubai (at a rate of 20%). Consequently, rental income of a REIT is not taxable (except where the investor is a branch of a foreign bank). Other types of business income if allowed to be generated are also not taxable.

Capital gains
Not taxable except where the above applies.

Withholding tax
N/A

Accounting rules
IFRS rules are applicable.

3.2 Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
Transfer fee of 1.5%-7%. Land registration fees.

There is no stamp duty or transfer tax levied on acquisition of freehold property in Dubai. However there are land registration fees and transfer fees. For property under development, the purchaser pays 1.5% of the value of the property and the developer pays 0.5% to the land registry.

If the property changes hands, the seller has to pay a transfer fee (depending on the developer, approximately 1.5-7.0% of the price of the property) to the developer.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
N/A	N/A	N/A

Corporate unit holder
No taxation for domestic corporate unit holders.

Individual unit holder
No taxation for domestic individual unit holders.

Withholding Tax
Dubai does not levy withholding taxes.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding Tax
Detailed information not yet available.	N/A	N/A

Corporate unit holder
Due to limited information available, comments on taxation for foreign corporate unit holder requirements must be subject to a future analysis with regards to nature of business of foreign corporate unit holders (subject to the comments in Part 3 above).

Individual unit holder
No taxation for foreign individual unit holders.

Withholding Tax
Dubai does not levy withholding taxes.

5 Tax treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Detailed information not yet available.	Detailed information not yet available.	Detailed information not yet available.

Foreign REIT
Due to limited information available, comments on taxation for a foreign REIT on income from Dubai must be subject to a future analysis with respect to applicability of double tax treaties between U.A.E. and the foreign REIT's country of residence.

Corporate shareholder

Due to limited information available, comments on taxation for domestic corporate unit holders from income of a foreign REIT must be subject to a future analysis with respect to applicability of double tax treaties between U.A.E. and the foreign REIT's country of residence.

Individual shareholder

Due to limited information available, comments on taxation for domestic individual unit holders from income of a foreign REIT must be subject to a future analysis with respect to applicability of double tax treaties between U.A.E. and the foreign REIT's country of residence. ■

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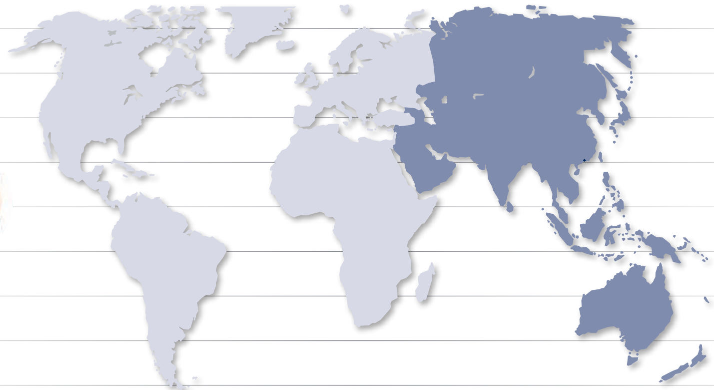

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Caveat: All information in this paper is based on our research as at June 2011. No reliance should be placed on nor should decisions be taken on the basis of the contents of this brochure. Any party or individual involved in the preparation of this brochure shall bear no responsibility for the consequences of any action taken on the basis of information contained herein, including errors and omissions. Throughout this survey, all REIT data provided in the "Sector summary (end of July 2011)" have been kindly provided by Macquarie Global Property Securities Analytics.

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1 General introduction

	Enacted year	Citation	REIT type
HK - REIT	2003	Code on Real Estate Investment Trusts	Trust type

The Code on Real Estate Investment Trusts (Code on REITs) was first introduced in July 2003, then revised in June 2005 and June 2010. REITs in Hong Kong are structured as trusts. They have to comply with the Code on REITs issued by the Securities and Futures Commission (SFC) for authorisation.

There are currently eight REITs with a total market capitalisation of approximately EUR 11.871 billion as at May 20, 2011.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Hong Kong	8	34,0	11,8	2,1%

Top five REITs

Company Name	Market cap (€m)	Sector type
The Link REIT	5.469	Parking, Retail
Hui Xian Real Estate Investment Trust	2.485	Hotel, Office, Parking, Residential, Retail
Champion REIT	1.896	Office, Others, Parking, Retail
Regal Real Estate Investment Trust	758	Hotel,Office,Retail
GZI Real Estate Investment Trust	405	Commercial, Office, Retail

2 Requirements

2.1 Formalities / procedure

Key requirements
- To be authorised by the SFC of Hong Kong. - Appointment of a trustee. - Appointment of a management company.

REITs have to be in the legal form of a trust and governed by the Code on REITs. They also need to be authorised by the SFC of Hong Kong.

One trustee that is functionally independent of the management company of the REIT must be appointed, but may be part of the same corporate group if certain requirements are met. The REITs listed in Hong Kong have all appointed independent trustees.

Furthermore, a management company that is acceptable to the SFC has to be appointed. An independent property appraiser has to also be appointed. An annual valuation of the REIT's assets must take place. In the case of a transaction (not defined in the Code on REITs, but generally understood to refer to significant transactions such as an acquisition or a disposal of property etc), the management company shall, where necessary or required by the Code, engage a financial adviser.

The management company may choose to itself perform all the functions required of it under the Code on REITs or delegate or contract out to one or more outside entities one or more of these functions.

Certain transactions with connected parties, such as the management company, the trustee, a significant unit holder of 10% or more, the property valuer or transactions between trusts which are managed by the same management company, are subject to approval by the unit holders.

2.2 Legal form /minimum initial capital

Legal form	Minimum initial capital
Unit trust	No

Legal form
REITs have to be in the legal form of a trust. A REIT may hold real estate directly or indirectly through special purpose vehicles that are legally and beneficially owned by the REIT.

Minimum initial capital
No formal minimum capital requirements exist in the Code on REITs.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
No requirements.	Yes

Unit holder requirements
All REITs in Hong Kong are in the form of a trust, and investors are the unit holders of the trust. There are no specific unit holder conditions that have to be fulfilled for REITs to be authorised in Hong Kong. Also there are no restrictions on foreign unit holders.

Listing requirements
All REITs in Hong Kong have to be listed on the Stock Exchange of Hong Kong Limited ('SEHK') within a period acceptable to the SFC. The REITs in Hong Kong are subject to the listing rules of SEHK.

2.4 Asset levels / activity test

Restrictions on activities / investments
- Must invest in real estate. - Must hold the real estate for at least two years. - Must not invest in vacant land or engage in property development activities. - Must not acquire any asset that involves the assumption of any unlimited liability. - May invest in real estate located in Hong Kong or overseas.

REITs must invest primarily in real estate that generates recurring rental income. The REIT may not acquire non-income generating real estate in excess of 10% of the total net asset value of the REIT at the time of acquisition.

A REIT must hold its real estate for a period of at least two years, unless consent is obtained from its unit holders by way of a special resolution at a general meeting.

A REIT is permitted to establish and own special purpose vehicle companies (SPVs) to hold its real estate investments. Under the Code on REITs, SPVs must be legally and beneficially owned by the REIT, and the REIT must have majority ownership and control of the SPVs. Generally, no more than two layers of SPVs are allowed unless specifically approved by the SFC. Where the REIT invests in hotel, recreation parks or serviced apartments, such investments shall be held by SPVs.

REITs are prohibited from investing in vacant land or engaging in or participating in property development activities (refurbishment, retro-fittings and renovation excepted).

A REIT must not acquire any asset that involves the assumption of any liability that is unlimited.

If a REIT indicates a particular type of real estate in its name, it must invest at least 70% of its non-cash assets in such type of real estate.

There is no limitation to the holding of units in a REIT in Hong Kong.

REITs may invest in foreign assets.

2.5 Leverage

Leverage
Limitation to 45% of total gross asset value.

The gearing ratio limit is 45% of total gross asset value of the REIT.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of audited annual net income after tax.	Specified in the trust deed.	Annually.

Operative income
A REIT shall distribute not less than 90% of its audited annual net income after tax in the form of dividends to its unit holders each year.

Capital gains
Whether any capital gains on disposal of real estate could be distributed is generally specified in the trust deed when a REIT is launched for sale to the public.

2.7 Sanctions

Penalties / loss of status rules
- De-listing. - Loss of authorisation by the SFC.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
- REIT is exempt from profits tax. - REIT may be subject to property tax. - SPV is subject to profits tax. - Dividends from SPV tax-exempt. - Foreign sourced income tax-exempt.	N/A	N/A

Current income
A REIT is exempt from Hong Kong profits tax under the Inland Revenue Ordinance of Hong Kong. However, where the REIT holds real estate in Hong Kong directly and derives rental income thereon, such rental income will be subject to Hong Kong property tax at the prevailing rate of 15%.

Where the REIT holds real estate in Hong Kong indirectly via SPVs, such SPVs will be subject to profits tax at the prevailing rate of 16.5% in respect of the profits derived from the real estate. Such SPVs would generally be exempt from property tax.

Income derived from real estate situated outside Hong Kong and capital gains are generally exempt from property tax and profits tax.

Dividends paid by a SPV to another SPV are generally exempt from profits tax.

Capital gains
There is no capital gains tax in Hong Kong.

Withholding tax
There is no withholding tax on interest, dividends or distributions from a REIT in Hong Kong.

Hong Kong has a territorial tax system and does not tax foreign-sourced income. There is therefore no question of any entitlement to a refund of a tax credit for foreign taxes withheld on the foreign-sourced income of a REIT.

Other taxes
There is no special tax treatment applicable to REITs in Hong Kong.

Accounting rules
REITs in Hong Kong are required to comply with the local GAAP, which is in line with IFRS.

3.2 Transition regulations

Conversion into REIT status
N/A

There are no specific tax privileges and concessions when converting into REIT status.

3.3 Registration duties

Registration duties
Stamp duties.

The transfer of Hong Kong real estate or shares of Hong Kong incorporated SPVs would be subject to stamp duty in Hong Kong. For the transfer of Hong Kong real estate, stamp duty is payable at 4.25% on the transfer consideration or market value, whichever is higher, where the stampable value exceeds HKD 21,739,120. For the transfer of shares in Hong Kong incorporated SPVs, stamp duty is payable at 0.2% (payable by the transferor and the transferee at 0.1% each) on the transfer consideration or market value, whichever is higher. In addition, a fixed duty of HKD 5 is currently payable on any instrument of transfer of shares.

Hong Kong Stamp Duty also applies to a lease of real estate in Hong Kong, generally at a rate of 0.25% to 1% of the average yearly rent, depending on the term of the lease.

The Financial Secretary in Hong Kong announced on November 19, 2010 that he had proposed to introduce Special Stamp Duty ("SSD") on disposal of residential properties. Any residential property acquired on or after November 20, 2010 and resold within 24 months will be subject to the proposed SSD at a rate up to 15%. The implementation of the new measures is subject to the enactment of the proposed legislative amendments.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Tax-exempt.	Tax-exempt.	N/A

Corporate unit holder
While distributions from REITs are not specifically tax-exempt, the Inland Revenue Department's practice so far is not to tax a REIT's distributions, whether they are received by individual or non-individual unit holders.

Gains on the disposal of REIT units are not subject to profit tax in Hong Kong if such gains are capital gains. A unit holder carrying on a trade, profession or business in Hong Kong consisting of the acquisition and disposal of units in a REIT is subject to Hong Kong profits tax in respect of any gains derived from the disposal of the units in Hong Kong.

Individual unit holder
While distributions from REITs are not specifically tax-exempt, the Inland Revenue Department's practice so far is not to tax a REIT's distributions, whether they are received by individual or non-individual unit holders.

Gains on the disposal of REIT units are not subject to profit tax in Hong Kong if such gains are capital gains. A unit holder carrying on a trade, profession or business in Hong Kong consisting of the acquisition and disposal of units in a REIT is subject to Hong Kong profits tax in respect of any gains derived from the disposal of units in Hong Kong.

A return of capital in the form of redemption of units is not subject to taxation.

Withholding tax
There is no withholding tax in Hong Kong on the distribution of profits.

Stamp duty
Hong Kong stamp duty is chargeable in respect of the transfer of the REIT units at 0.2% of the transfer consideration (payable by the transferor and transferee at 0.1% each). In addition, a fixed duty of HKD5 is currently payable on any instrument of transfer of units.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Tax-exempt.	Tax-exempt.	N/A

Corporate unit holder
While distributions from REITs are not specifically tax-exempt, the Inland Revenue Department's practice so far is not to tax a REIT's distributions, whether they are received by individual or non-individual unit holders.

Gains on the disposal of REIT units are not subject to profit tax in Hong Kong if the foreign unit holder is not carrying on any trade, profession or business in Hong Kong or such gains are capital gains. A unit holder carrying on a trade, profession or business in Hong Kong consisting of the acquisition and disposal of units in a REIT is subject to Hong Kong profits tax in respect of any gains derived from the disposal of units in Hong Kong.

In addition, certain transactions undertaken by genuine foreign funds are exempt from Hong Kong tax.

Individual unit holder

While distributions from REITs are not specifically tax-exempt, the Inland Revenue Department's practice so far is not to tax a REIT's distributions, whether they are received by individual or non-individual unit holders.

Gains on the disposal of REIT units are not subject to profit tax in Hong Kong if the foreign unit holder is not carrying on any trade, profession or business in Hong Kong or such gains are capital gains. A unit holder carrying on a trade, profession or business in Hong Kong consisting of the acquisition and disposal of units in a REIT is subject to Hong Kong profits tax in respect of any gains derived from the disposal of units in Hong Kong.

In addition, certain transactions undertaken by genuine foreign funds are exempt from Hong Kong tax.

Withholding tax

There is no withholding tax in Hong Kong on distribution of profits.

Stamp duty

Hong Kong stamp duty is chargeable in respect of the transfer of the REIT units at 0.2% of the transfer consideration (payable by the transferor and transferee at 0.1% each). In addition, a fixed duty of HKD 5 is currently payable on any instrument of transfer of units.

5 Tax treatment of foreign REITs and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Local tax rules apply.	No taxation.	No taxation.

Foreign REIT

Local tax rules apply. Rental income derived from properties in Hong Kong is subject to either Hong Kong profits tax or property tax.

Corporate unit holder

No Hong Kong tax if no business consisting of the acquisition and disposal of investment in REITs is carried on in Hong Kong.

Individual unit holder

No Hong Kong tax if no business consisting of the acquisition and disposal of investment in REITs is carried on in Hong Kong. ■

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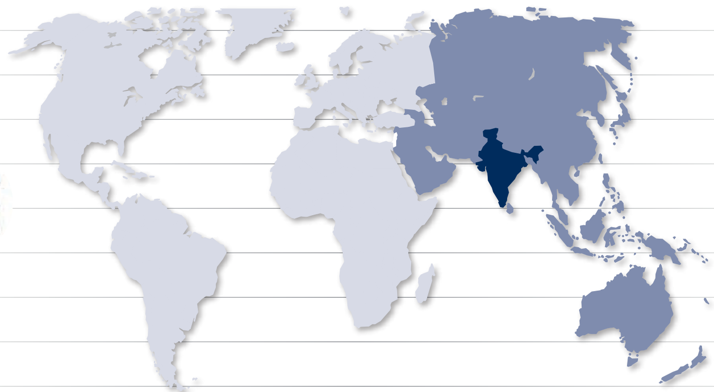

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1 General introduction

Enacted year	Citation	REMF type	REMF market
Notified on April 16, 2008.	Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.	Trust.	To be established.

Based on a report submitted by a committee which analysed the REIT models in other countries, the Securities and Exchange Board of India (SEBI) decided that real estate funds in India could best be launched in the form of a Mutual Fund, a legal framework which already existed.

On April 16, 2008, SEBI amended the existing SEBI (Mutual Funds) Regulations, 1996 (SEBI Regulations) to introduce Real Estate Mutual Funds (REMF), the Indian form of REIT.

Currently, there are no REMFs registered with the SEBI. While applications for REMF registrations have been made by certain real estate players, these are under consideration by SEBI for approval. However, access to the real estate market in India is through domestic venture capital and private equity players.

On December 28, 2007, SEBI also issued the draft SEBI (Real Estate Investment Trust) Regulations, 2008 for public comments. The REIT Regulations are still at the draft stage and are yet to be formalised or enacted. No further development has taken place on the REIT Regulations, since the draft regulations were posted for public comments in December 2007. SEBI Chairman Mr. C.B. Bhave said that REITs will be looked at a later stage after the workings of REMFs are assessed.

Considering that the current regulations only permit REMFs, this synopsis provides a summary of the REMF regulations. The key aspects of the draft REIT regulations are summarised briefly in Paragraph 6 of this document.

2 Requirements

2.1 Formalities/procedure

Key requirements
- REMF is launched by a sponsor in the form of a trust duly registered with SEBI. - Trustees and asset management company ('AMC') are to be appointed for the REMF with approval of SEBI. - Eligibility conditions have been specified for REMF and AMC. - Schemes to be floated by REMF need to be 'close-ended' and units of every scheme are required to be listed on a recognised stock exchange.

REMF is required to be constituted as a trust with its trust deed providing for undertaking real estate investments as per the SEBI Regulations.

REMF is required to be registered with SEBI and comply with the applicable provisions of the SEBI Act, SEBI Regulations, Securities Contract (Regulation) Act, 1956 and other applicable laws.

Conditions for eligibility of REMF are as under:

- REMF is in the form of a trust and the trust deed needs to be approved by SEBI.
- Sponsor should fulfil the criteria of having a sound track-record and general reputation of fairness and integrity including:
  - Positive net worth in all the immediately preceding five years.
  - Net worth in the immediately preceding year should be more than capital contribution of sponsor in AMC.
  - Sponsor should have profit after tax in three out of the immediately preceding five years, including the fifth year.
- In case of an applicant launching only a REMF, the sponsor should have been carrying on real estate business for at least five years. In case of an existing mutual fund, the sponsor is to have an adequate number of key personnel/directors having adequate experience in real estate.
- Sponsor should be a 'fit and proper' person.

- Sponsor should contribute at least 40% to the net worth of AMC, provided that any person who holds 40% or more of the net worth of an AMC shall be deemed to be a sponsor and will be required to fulfil the eligibility criteria specified in the MF Regulations.
- Sponsor or any of its directors or the principal officer to be employed by the REMF should not have been guilty of fraud, or has not been convicted of an offence involving moral turpitude, or has not been found guilty of any economic offence.
- Trustees, AMC and Custodian are appointed for the REMF.

Conditions for eligibility of AMC are as under:

- AMC should have sound track-record, general reputation and fairness in transactions.
- AMC should be a 'fit and proper' person.
- The directors of AMC are persons having adequate professional experience in finance and financial services-related field, and not found guilty of moral turpitude, or convicted of any economic offence or violation of any securities laws.
- The key personnel of the AMC have not been found guilty of moral turpitude, or convicted of any economic offence, or violation of securities laws, or worked for any AMC or mutual fund or any intermediary during the period when its registration has been suspended or cancelled at any time by SEBI.
- The board of directors of the AMC has at least 50% directors, who are not associates of, or associated in any manner with, the sponsor or any of its subsidiaries or the trustee.
- The Chairman of the AMC is not a trustee of any mutual fund.
- The AMC has a net worth of at least INR 100 million.

2.2 Legal form and minimum initial capital

Legal form	Minimum initial capital
Trust	No minimum initial capital requirement.

Legal form

REMFs are required to be set up as a trust and the trust deed is to be duly approved by SEBI.

REMFs raise monies through sale of units to the public, or a section of the public under one or more schemes.

Minimum initial capital

There is no minimum initial capital requirement under the regulations.

2.3 Unit holder requirements and listing requirements

Unit holder requirements	Listing mandatory
- SEBI requires an REMF scheme to have a minimum of 20 investors with not more than 25% of the units held by a single investor. - Unit holders do not have rights to use real estate assets. - Among non-residents, only Foreign Institutional Investors and Non-Resident Indians can make investments in the units of REMFs.	Yes

2.4 Asset levels / activity test

Restrictions on activities / investments
REMFs are required to invest: - At least 35% of net assets of the scheme in real estate assets. - At least 75% of net assets of the scheme in real estate assets, mortgage backed securities, equity shares / debentures of real estate company, whether listed or not. - Balance can be invested in other securities allowed to a mutual fund. Project concentration limits - Maximum 30% of net assets of REMF Schemes in a single city (under all REMF Schemes). - Maximum 15% of net assets of REMF Schemes in single real estate project by a builder in a single location within a city (under all REMF Schemes). Company concentration limits - Maximum 25% of total issued capital of any unlisted company (under all REMF Schemes). - Maximum 15% of net assets of any REMF Scheme in equity shares or debentures of any unlisted company.

SEBI Regulations require that at least 35% of net assets of the scheme to be invested in real estate assets defined as an identifiable immovable property:

- located in specified cities in India or in a Special Economic Zone (list of 35 million-plus urban agglomerations, and 27 million-plus cities has been specified),
- on which construction is complete and which is usable,
- which is evidenced by valid title documents,
- which is legally transferable,
- which is free from all encumbrances,
- which is not the subject matter of litigation,

but, does not include:

- a project under construction,
- vacant land,
- deserted property,
- land specified for agricultural use,
- a property which is reserved or attached by any Government or other authority or pursuant to orders of a court of law or the acquisition of which is otherwise prohibited under any law for the time being in force.

REMFs are not allowed to invest in:

a. any unlisted security of the sponsor or its associate or group company,
b. any listed security issued by way of preferential allotment by the sponsor or its associate or group company,
c. any listed security of the sponsor or its associate or group company, in excess of 25% of the net assets of the scheme,
d. any real estate asset which was owned by the sponsor or the asset management company or any of its associates during the period of the last five years or in which the sponsor or the asset management company or any of its associates hold tenancy or lease rights.

REMFs are not allowed to transfer real estate assets among its schemes.

AMC may let out or lease the real estate asset if the term of such leasing or letting does not extend beyond period of maturity of the REMF scheme. The real estate asset can also be let out to the sponsor, AMC or associate at market price, subject to the condition that not more than 25% of total rental income of scheme is generated out of such letting out.

REMF shall not undertake lending or housing finance activities.

Investment in foreign real estate is restricted under Indian exchange control regulations. No specific exemption permits REMFs to invest overseas.

2.5 Leverage

Leverage
20% of net assets of the scheme.

REMFs are allowed to borrow only to meet temporary liquidity needs of the mutual funds for the purpose of repurchase, redemption of units or payment of interest or dividend to the unit holders. Further, such borrowings cannot exceed 20% of the net asset of the scheme and the duration of such a borrowing cannot exceed a period of six months.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
As per offer document and SEBI Guidelines.	As per offer document and SEBI Guidelines.	As per offer document and SEBI Guidelines.

A mutual fund can declare dividends in accordance with the offer document and subject to any Guidelines as may be specified by SEBI.

Unrealised gain arising from the appreciation in the value of real estate asset or investments cannot be distributed.

2.7 Sanctions

Penalties / loss of status rules
In case of any default by REMF, the same is dealt with in the manner provided in SEBI (Intermediaries) Regulations, 2008.

2.8 Other aspects

- AMC / Trustees are required to comply with various conditions in relation to REMF.
- Valuation of real estate assets is required to be undertaken at cost price on the date of acquisition and at fair price on every 90th day from the day of purchase in accordance with specified valuation norms.
- Net Asset Value (NAV) of every scheme is required to be declared on each working day. NAV of a close-ended scheme, other than that of equity linked savings scheme, shall be calculated on daily basis.
- Limits have been specified on fees that can be paid by REMF to AMC and also on expenses of REMF.
- Restrictions have been specified on other business activities of AMC.

3 Tax treatment at the level of REMF

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Income of REMF is exempt.	Income of REMF is exempt.	No withholding tax on income paid to REMF.

Current income and capital gains

Any income of REMF is exempt from tax as per the provisions of the Income Tax Act, 1961. Under the current tax regime, REMFs are liable to pay tax on distribution of income to unit-holders as under:

- 13.52% for individuals and Hindu Undivided Family; and
- 32.45% for others.

3.2 Transition regulations

Conversion into REMF status
N/A

No specific provisions.

3.3 Registration duties

Registration duties
- Stamp duty and registration costs on real estate range between 5%-15%.

There are no specific exemptions available to REMFs.

Stamp duty is levied at the time of registration of the purchase transaction. Rates for stamp duty vary between 5%-15% on real estate transactions, depending upon the state in which the instrument for transfer is executed. Stamp duty is levied on sale price or value of the asset as per circle rates, whichever is higher.

Registration of documents recording the transfer of real estate asset in the name of purchaser attracts registration fee. Registration fee is a state levy and varies across states in India.

The following fee structure is applicable to REMF under SEBI Regulations:

Fees	REMF
Application Fees	INR 0.1 million
Registration Fees	INR 2.5 million
Annual Fees	INR 0.25 to 0.75 million (based on net assets)
Offer Document Fees	0.002% of the amount raised in new fund offer (subject to minimum of INR 0.1 million and maximum of INR 5 million)

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Income distribution from REMF is exempt. Gains on sale of units are taxable at specified rates.	Income distribution from REMF is exempt. Gains on sale of units are taxable at specified rates.	No withholding tax on receipts.

Sale of REMF units is liable to capital gains tax as under:

- Long-term capital gains are taxable at the rate of 10.3% (without indexation) or 20.6% (with indexation) and in case where recipient is a company having taxable income more than INR 10 million, at the rate of 10.82% (without indexation) and 21.63% (with indexation) and
- Short-term capital gains are taxable at 30.9% or 32.45% (in case where recipient is a company having taxable income more than INR 10 million).

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Income distribution from REMF is exempt. Gains on sale of units is taxable at specified rates.	Income distribution from REMF is exempt. Gains on sale of units is taxable at specified rates.	No withholding tax on income distribution. Withholding tax may become applicable on capital gains.

Sale of REMF units is liable to capital gains tax in the hands of non-resident investors at varying rates dependent upon status of unit holder, period of holding, etc.

Where withholding tax becomes applicable on capital gains income of the foreign unit holder, he shall be required to furnish his Permanent Account Number to REMF at the time of tax withholding.

5 Tax treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Varying rates.	N/A	Varying rates.

Foreign REIT

Under Indian exchange control regulations, a foreign REIT cannot directly own real estate assets in India. It is required to invest in an Indian company (subject to the requirements of Indian exchange control regulations) which in turn owns the assets.

A foreign REIT would be taxable in India like any other non-resident, subject to any treaty benefits that may be available. Tax would be applicable at varying rates dependent upon status of unit holder, period of holding, etc.

Corporate unit holder

Under Indian exchange control regulations, a resident company is prohibited from making investment in a foreign entity engaged in real estate without the prior approval of Reserve Bank India (RBI). Accordingly, where a resident company wishes to invests in units of an overseas REIT, it would need to obtain prior approval from RBI.

Individual unit holder

Under Indian exchange control regulations, resident individuals are permitted to remit up to USD 200,000, per financial year, under the Liberalized Remittance Scheme for Resident Individuals, for any permitted current or capital account transaction or a combination of both. Accordingly, a resident individual may invest in units of a foreign REIT under the above-mentioned Scheme.

A resident individual unit holder of a foreign REIT (i.e. a resident individual who invests in units of an overseas REIT) would be liable to tax on his worldwide income including income from a foreign REIT. Tax would be applicable at varying rates dependent upon the status of the foreign REIT, nature of income, period of holding, etc.

6 Draft REIT regulations

The SEBI also issued the draft SEBI (Real Estate Investment Trust) Regulations, 2008 for public comments. The key aspects of the draft regulations are summarised below:

Key requirements
- REIT is required to be constituted as a trust. - REIT and Real Estate Investment Management Company ('REIMC') need to be registered with SEBI. - REIT should have a net worth of INR 50 million. - 50% of the trustees of REIT / directors of REIMC, as the case may be, should be independent. - Schemes to be floated by REIT need to be 'close-ended' and units of every scheme are required to be listed on a stock exchange as specified in the offer document.

Restrictions on activities / investments
- REITs are allowed to invest only in real estate. - REITs may acquire uncompleted units in a building which is unoccupied and non-income producing or in the course of substantial development, redevelopment or refurbishment, but the aggregate contract value of such real estate shall not exceed 20% of the total net asset value of the scheme at the time of acquisition. - REITs are prohibited from investing in vacant land or engage in property development. - REITs cannot take more than 15% exposure in a single real estate project. - REITs cannot take more than 25% exposure of all the real estate projects developed, marketed, owned or financed by a group of companies.

Leverage
20% of total gross assets of the scheme.

Profit distribution obligations		
Operative Income	Capital Gains	Timing
90%	90%	Annual

Other aspects.
- REIMC has restrictions on undertaking any activity other than that of managing schemes. Activities such as acting as trustee of any scheme, launching scheme for investment in securities, etc. are restricted. - Every scheme is required to appoint an independent property valuer. The scheme is required to disclose NAV annually based on property valuer's report.

Taxation & Foreign Exchange regulations
- In the absence of any specific provision, REITs are governed by complex tax provisions applicable to trusts in India. In principle, trusts are generally treated as pass-through for Indian tax purposes. - Currently there are no enabling provisions in the Indian exchange control regulations for participation by foreign investors in REITs. - Similarly, investment in foreign real estate is restricted under Indian exchange control guidelines. No specific exemption permits REITs to invest overseas.

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Asia

Japan

(J-REIT)

Global REIT Survey 2011

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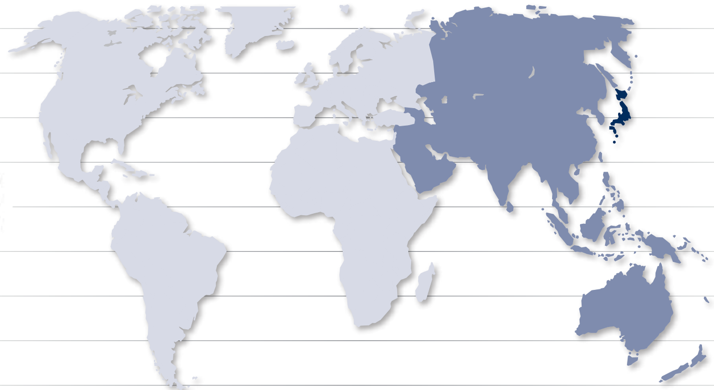

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European Public Real Estate Association

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1 General introduction

	Enacted year	Citation	REIT type
J-REIT	2000	Investment Trust and Investment Corporation Law.	Trust or corporate type (in practice, corporate type).

(History)

A REIT in Japan is known as a Japanese Real Estate Investment Trust (J-REIT). It was introduced with the amendment to the Investment Trust and Investment Corporation Law in November 2000 (Investment Trust Law or 'ITL'). The ITL provides for two different types of investment vehicle: 'investment trusts' and 'investment corporations *(toshi hojin)*'. To date, all J-REITs have been formed as investment corporations, therefore only this type of structure is discussed below. The ITL adopts an external management structure for J-REITs, whereby the relevant investment corporation has no employees and must enter into contracts with a registered asset management company.

Under the tax law, a corporate type J-REIT is subject to Japanese corporate tax with an effective tax rate of around 42% (currently the Japanese government is discussing corporate tax reforms to decrease the tax rate by 5 % in the future). As a tax pay-through entity, a J-REIT can deduct dividends paid to its shareholders from its taxable income if the J-REIT complies with certain tax law requirements, including the requirement that more than 90% of the J-REIT's profits for accounting purposes must be distributed as dividends.

The first two J-REITs were listed on the Tokyo Stock Exchange in September 2001, sponsored by two of the largest real estate corporations in Japan. The number of listed J-REITs increased to 42 and the J-REIT market has significantly expanded up to the 2007 financial crisis. The Tokyo Stock Exchange REIT INDEX ('TSE REIT INDEX') peaked at 2,612.98 on May 01, 2007 and fell to its lowest level at 704.46 on October 1, 2008.

In 2010, 7 J-REITs have merged with larger J-REITs and the number of listed J-REITs has decreased from 41 to 35. In the same year, the TSE REIT INDEX rebounded by 34.12% (including dividends) or 26.59% (without dividends) to 1,130.70 on December 30, 2010. The total market capitalization of J-REITs has also recovered to Yen 3,701.5 billion by December 30, 2010. After the March 11 Northeast (Tohoku) Earthquake and tsunami disaster, the total market capitalization of J-REITs as of March 31, 2011 was Yen 3,536.6 billion; however, this figure has recovered to Yen 3,602.1 billion as of April 30, 2011.

(REIT mergers in 2010)

Merger effective date	Surviving entity	Merged entity	Merger ratio	Announce date	Asset size after merger (billions of yen)	Negative goodwill special gain (billions of yen)
2/1/2010	Tokyo Growth REIT	LCP	1:0.80	11/17/2009	70.5	11.8
3/1/2010	Advance Residence	Nippon Residential	1:0.67	8/6/2009	343.4	43.3
3/1/2010	Japan Retail Fund	LaSalle Japan	1:0.30	10/29/2009	624.3	7.2
4/1/2010	B-Life	New City Residence	1:0.23	9/18/2009	191.5	19.0
7/1/2010	Japan Rental Residential	Prospect REIT	1:0.75	2/26/2010	153.1	12.3
10/1/2010	Crescendo	Japan Single Residence	1:0.75	6/21/2010	143.7	10.0
12/1/2010	United Urban	Nippon Commercial	1:0.17	4/22/2010	390.4	16.0

(**Source:** ARES J-REIT REPORT vol.January 14, 2011)

(Change of J-REIT Sponsors)

Announce date	J-REIT	New Sponsor
2/19/2010	Joint REIT (Now "Sekisui House/SI")	Sekisui House, Spring Investment
4/26/2010	Premier	NTT City Development
7/26/2010	Japan Hotel Fund	Real Estate Capital Asia Partners II LP

(J-REIT's asset acquisition and financing)

In 2010, the total amount of assets acquired by all J-REITs amounted to Yen 544 billion (up 121% from the previous year). The largest acquisition was the Yen 110 billion acquisition of Tokyo Shiodome Building by Mori Trust REIT in April 2010.

In 2010, the total amount of new J-REIT unit offerings was Yen 131.5 billion (up 109% from the previous year). The total new unit issues (including third party allotment) was Yen 144.9 billion (up 69% from the previous year).
In the same year, the total amount of new J-REIT bond offerings was Yen 179.5 billion. The first J-REIT bond offering was made by Nippon Building Fund in January 2010 after a long interval since May 2008.

(March 11 earthquake)

On March 11, 2011, a magnitude 9.0 earthquake hit the Northeast region in Japan. According to the Cabinet Office, the total economic cost could be around Yen 16 to 25 trillion for reconstruction of social infrastructure, private housing and corporate facilities. However, the damage to institutionally held property was minimal and J-REIT investments in the Northeast area was 1.1% of their total property assets. After a sharp decline of the TSE REIT INDEX to 838.9 in 2 business days after the earthquake, the index rebounded to 1055.18 at the end of March 2011. However, the tragedy had some indirect effects: some new REIT unit offerings were cancelled due to a volatile market, some asset acquisition plans were suspended and it also affected the operation of office tenant companies.
In March 2011, foreign investors (accounting for around 50% trading share in the TSE market) bought J-REIT units for Yen 13.0 billion in total, while the Bank of Japan also purchased J-REIT units for Yen 13.1 billion for the same period.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector -Performance- 12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Japan	34	13,2	29,5	5,2%

Top five REITs

Company Name	Market cap (€m)	Sector type
Nippon Building Fund Inc	4.112	Office
Japan Real Estate Investment Corp	3.407	Office
Japan Retail Fund Investment Corp	1.830	Retail
United Urban Investment Corp	1.753	Hotel, Office, Others, Residential, Retail
Mori Trust Sogo Reit Inc	1.718	Hotel, Office, Residential, Retail

2 Requirements

2.1 Formalities / procedure

Key requirements
- Building Lots and Building Transactions Agent Licence. - Discretionary Transaction Agent Licence. - Registration of the Asset management company with the Financial Services Agency. - Registration of the J-REIT with the Financial Services Agency.

As stated above, J-REITs are typically investment corporations that must be managed by a registered asset management company. As of September 30, 2007, the Financial Instruments and Exchange Law (FIEL) became effective as comprehensive regulations for financial services. Although the ITL continues to exist as regulations applicable to J-REITs, the FIEL superseded a part of the ITL with respect to regulations for the asset management company of an investment corporation.

Under the FIEL, registration as an investment manager is required for an asset management company. As such, the FIEL replaced the previous approval process with a new registration process. However, this process is relatively the same as the former approval procedures.

The first step for a sponsor of the J-REIT is to establish an asset management company and acquire a 'Building Lots and Building Transactions Agent Licence' and a 'Discretionary Transaction Agent Licence' from the Ministry of Land, Infrastructure, Transport and Tourism (MLIT). After these licences are obtained, the asset management company may apply for registration as an investment manager with the Financial Services Agency (FSA). The requirements for the investment manager registration include minimum paid-in-capital/net assets of JPY 50 million and sufficiently experienced personnel. Once the registration is completed, the registered Asset Management Company can begin incorporating a J-REIT as a promoter of the investment corporation and register a new company on the commercial register.

After the J-REIT is set up, the J-REIT must be registered with the FSA in order to commence its business as a J-REIT and is subject to the reporting and inspection requirements of the FSA and the local finance bureau.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Corporation (in practice)	JPY 100 million

Legal form
A J-REIT must be formed as a domestic corporation in compliance with the ITL. As described above, a J-REIT can either be a 'trust type' or a 'corporate type' under the ITL. When the first J-REITs were formed, the trust type was administratively cumbersome and more expensive to establish. In addition, the corporate governance rules applicable to the corporate type were considered to be more attractive to investors. As a result, the present publicly listed J-REITs are all the corporate type as of April 30, 2011.

Minimum share capital
J-REIT shares have only one class with voting rights. The minimum investment capital for a J-REIT is JPY 100 million under the ITL.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
- No requirements under the Investment Trust Law (ITL). - Special shareholder conditions in order to deduct dividend distribution under the tax law.	No

Shareholder requirements
There are no shareholder requirements under the ITL. However, in order to benefit from the J-REIT privilege of deducting distributed dividends for tax purposes, the specific shareholder conditions must be met.

Listing requirements
With regard to both the ITL and tax purposes, as there is no requirement for a J-REIT to be listed on a stock exchange, a private J-REIT is allowed.

The Tokyo Stock Exchange established the infrastructure for a J-REIT market in March 2001, after J-REITs were introduced under the ITL in 2000. The listing requirements for J-REITs include the following:

1. The J-REIT under the ITL must be a close-ended fund;
2. At least 70% of the J-REIT's assets must be invested in or expected to be invested in real estate assets, including (1) real estate, (2) leasehold rights in real estate, (3) surface rights, (4) easement, and (5) trust beneficiary rights in (1) – (4) for three months after its listing;
3. At least 95% of the J-REIT's total assets must be invested, or expected to be

invested, in real estate assets, cash and cash equivalents for three months after its listing;
4. Net assets and total assets must exceed JPY 1 billion and JPY 5 billion, respectively;
5. Minimum float requirements (at the time of the initial listing):
   (1) The number of outstanding units should be 4,000 shares or more.
   (2) The total number of units held by the "10 largest J-REIT shareholders" should be 75% or less of the total outstanding units.
   (3) The number of public float shareholders (shareholders other than the "10 largest J-REIT shareholders") should be 1,000 or more.

*The listing rule previously required the real estate, described in No. 2 above, to be located in Japan. However, such restrictions were removed due to amendments to the Tokyo Stock Exchange listing rules as of May 2008. As such, J-REITs are now allowed to invest in foreign real estate.

2.4 Asset level / activity test

Restrictions on activities / investments
- Merely an asset holding vehicle. - Investment primarily in 'Qualified Assets'.

Under the ITL, a J-REIT is established for investments primarily in 'Qualified Assets'. In principle, a J-REIT is merely an asset holding vehicle; it is not allowed to hire employees and it is required to delegate assets management, asset custody, and general administrative functions to independent professionals.

'Qualified Assets' include (1) securities, (2) real estate, (3) leasehold rights in real estate, (4) surface rights, (5) monetary debts, (6) promissory notes, (7) trust beneficiary rights (money, securities, monetary debts, real estate, leasehold rights and surface rights for land), (8) interest in a *tokumei kumiai* (TK) partnership, and (9) trust beneficiary rights to monies in which the purpose is to manage an investment in a *tokumei kumiai* interest primarily consisting of trust property, etc. "Primarily" means more than 50% of the total assets.

Under the ITL, a J-REIT cannot own more than 50% of the voting shares of another corporation. Furthermore, there is a restriction on owning 50% or more interest in another corporation in order to deduct distributed dividends for tax purposes (see no. 3.1 B f) below.

As discussed in no 2.3 above, the listing rules of the Tokyo Stock Exchange also have asset holding requirements (See no. 2.3, 2 and 3).

2.5 Leverage

Leverage
No gearing (LTV) limit under the law. May only receive loans from qualified institutional investors.

Under the ITL, there is no restriction concerning borrowings or gearing ratio. In the usual case, the J-REIT provides a limitation on the gearing ratio (LTV ratio), around 55% to 60% of loan to total assets ratio, in its articles of incorporation.

In order to deduct distributed dividends under Japanese tax law, J-REITs may not receive loans from lenders other than institutional investors. The institutional investors for this purpose generally include securities companies, banks, insurance companies, pension funds, etc, however, the scope of the "institutional investors" is narrower than that in the FIEL.

2.6 Profit distribution obligations

Ordinary income	Capital gains	Timing
Greater than 90% of profits.	Same as ordinary income.	Within the same taxable period.

Under Japanese tax law, in order to deduct distributed dividends, a J-REIT is required to pay its investors more than 90% of its distributable profits within the same taxable period, as provided in the Special Taxation Measures Law.

Capital gain is not distinguished from ordinary income, and therefore forms part of taxable income. Under the ITL, there is no minimum distribution requirement, however, as a procedural issue, the ITL requires that a distribution only be made based on the approval of a Directors' meeting with its audited financial statements for each relevant fiscal period. A fiscal period of a J-REIT is generally six months. A taxable period of a J-REIT is usually consistent with its fiscal period. No advance distribution is allowed under the ITL.

2.7 Sanctions

Penalties / loss of status rules
- Regulatory action. - Cannot deduct dividend distribution.

In principle, a J-REIT is created under the ITL and is required to register with the FSA in order to operate its business as a J-REIT. If a J-REIT does not comply with the ITL, a J-REIT may ultimately be disallowed. All activities of a J-REIT are subject to regulatory scrutiny, and any deviation may result in regulatory action (i.e. ordered to improve, withdrawal of licence, etc.).

Even if the listing requirements or the dividend deduction requirements are not met, the J-REIT status can remain. However, a J-REIT, properly operated under the ITL, should comply with all listing requirements on the Tokyo Stock Exchange (See 2.3) in order to continue being listed, as well as all dividend deduction requirements under the tax law in order to deduct its distributed dividends for each relevant fiscal period.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Ordinary income	Capital gains	Withholding tax
- Corporate tax of 42%. - Dividends are deductible from taxable income under certain conditions.	- Not distinguished from ordinary income.	- Varies depending on the nationality of shareholder.

Ordinary income

Japanese corporations are subject to corporate income taxes at an effective rate of approximately 42% (currently the Japanese government is discussing corporate tax reforms to decrease the tax rate by 5% in the future). Under the Special Taxation Measures Law, however, a J-REIT is allowed to deduct distributed dividends from its taxable income if all of the following requirements are met. Any remaining taxable income after the deduction of distributed dividends will be subject to regular corporate taxes in Japan.

Rental income, business income, and capital gains are not distinguished from ordinary income for Japanese corporate tax purposes, and are taxed aggregately at an effective tax rate of around 42%.

The requirements for deducting dividend distributions are as follows[1]:
A. Requirements for eligible J-REIT:
a. The J-REIT is registered under Article 187 of the ITL;
b. Either of the following conditions is met:
  i. There is a public offering of the J-REIT shares with a total issue price of JPY 100 million or more at the time the J-REIT is established;
  ii. The outstanding shares are owned by at least 50 shareholders or exclusively by qualified institutional investors at the end of the relevant fiscal period;

[1] Article 67-15, the Special Taxation Measurement Law

c. The articles of incorporation provide that more than 50% of the shares must be offered domestically (In the 2011 tax reform proposal, it is currently discussed in the Diet sessions that "more than 50% new share domestic sale" will be calculated on an aggregated basis for all issues including the past issues"); and
d. The J-REIT has a fiscal period of one year or less.

B. Requirements relating to the applicable fiscal year:
a. The J-REIT must not engage in any business other than asset management, open any place of business other than its head office, nor hire any employees;
b. The asset management function must be outsourced to a qualified asset manager as defined in Article 198 of the ITL;
c. The custody function for the assets owned by the J-REIT must be outsourced to a qualified custodian as defined in Article 208 of the ITL;
d. Any one of the shareholders and its affiliates must not collectively hold more than 50% of the outstanding shares or voting rights at the end of the relevant fiscal period;
e. More than 90% of its distributable profits as defined in the Special Taxation Measures Law must be distributed within the same fiscal period;
f. The J-REIT must not hold 50% or more of the equity of another corporation (including other J-REIT), and;
g. The J-REIT must not have borrowings from parties other than institutional investors, as defined in the Special Taxation Measures Law.

Accounting rules

A J-REIT must comply with Japanese accounting rules (J-GAAP). A J-REIT can make a dividend distribution from profits calculated based on J-GAAP. Under the tax law, in order to deduct distributed dividends, a J-REIT should distribute more than 90% of its distributable profits (See B.e above) as dividends. Therefore, a J-REIT is required to carefully monitor its accounting treatment under J-GAAP in order to meet the 90% distributable profits requirement.

Neither US-GAAP nor IFRS is allowed for a J-REIT. A J-REIT's financial statements are prepared on a single-entity basis only since it cannot own subsidiaries.

3.2 Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
- Real property acquisition tax (favourable rate can be applied). - Registration tax (favourable rate can be applied). - Consumption tax (applicable to disposition of buildings only).

Real property acquisition tax and registration tax are levied on an acquisition of real estate. Consumption tax is levied on a disposition of buildings but not land. Real property acquisition tax and registration tax can be reduced under special treatment applicable to J-REITs that can satisfy certain requirements.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

	Corporate shareholder	Individual shareholder	Withholding tax
Dividends	- Standard corporate tax rate. - Dividend received deduction (DRD) not applicable.	- 10% withholding tax (7% national and 3% local); taxed separately from ordinary income to which standard progressive tax rates apply.	- 7% withholding tax for corporate shareholders until December 31, 2011, and 15% thereafter. - 10% withholding tax for individual shareholders until December 31, 2011, and 20% thereafter. - Corporate shareholders can credit the withholding tax against their corporate income tax, with any excess amount to be refunded.
Capital gain from share disposition.	- Standard corporate tax rate.	- 10% income tax until December 31, 2011, and 20% thereafter; taxed separately from ordinary income to which standard progressive tax rates apply.	- N/A

Corporate shareholder

(Dividends)

For corporate shareholders, dividends from a listed J-REIT are subject to Japanese withholding tax at a reduced tax rate of 7%, which treatment was recently extended until December 31, 2011, and thereafter at the original tax rate of 15%. Dividend income is aggregated with other income and is subject to tax at the effective corporate tax rate of around 42%. The withholding tax can be credited against corporate income tax liability, with any excess amount to be refunded. Unlike dividends from ordinary Japanese companies, dividends from a J-REIT do not qualify for the dividend received deduction, since they are deductible in the hands of the payee J-REIT.

(Capital gain)

Capital gain is not distinguished from ordinary income and is subject to corporate tax at the effective rate of around 42%. There is no withholding tax on capital gain arising from the disposition of J-REIT shares.

Individual shareholder

(Dividends)

Although the default rule is that dividends from a listed J-REIT must be reported in a tax return and taxed aggregately with other types of income, most taxpayers choose to have them taxed separately from ordinary income to which standard progressive tax rates apply, by way of final flat rate withholding tax, as described below.

For individual shareholders, dividends from a listed J-REIT are subject to Japanese withholding tax at a reduced rate of 10% (7% national plus 3% local), which treatment was recently extended until December 31, 2011, and thereafter at the original tax rate of 20% (15% national plus 5% local). Individual shareholders can elect to have the dividends taxed separately from ordinary income at the above rates by way of final withholding tax, or choose to have the dividends taxed aggregately with ordinary income at standard progressive tax rates. However, individual shareholders owning 5% or more of the total outstanding shares of a J-REIT as of the record date are taxed on the dividends aggregately with ordinary income at standard progressive tax rates.

(Capital gain)

Capital gain from a disposition of listed J-REIT shares through securities companies is subject to individual income tax separately from ordinary income to which standard progressive tax rates apply, at the rate of 10% until December 31, 2011 and thereafter at 20%. This tax is usually paid by filing a tax return, with certain exceptions for qualified securities account holders, who pay the tax through withholding from the qualified account.

Withholding tax

For corporate shareholders, dividends from a listed J-REIT are subject to withholding tax at the rate of 7% until December 31, 2011, and thereafter at 15%. The withholding tax can be credited against their corporate income tax liability, with any excess amount to be refunded.

For individual shareholders, dividends from a listed J-REIT are subject to withholding tax at the rate of 10% until December 31, 2011, and thereafter at 20%. However, individual shareholders owning 5% or more of the total outstanding shares of a J-REIT as of the record date are subject to 20% withholding tax.

4.2 Foreign shareholder

	Corporate shareholder	Individual shareholder	Withholding tax
Dividends	- Withholding tax is the final levy for foreign corporate shareholders without a PE in Japan. - Standard corporate tax rate for foreign corporate shareholders with a PE in Japan.	- Withholding tax is the final levy for foreign individual shareholders without a PE in Japan. - 10% withholding tax, taxed separately from other income until December 31, 2011, and 20% thereafter, for foreign individual shareholders with a PE in Japan.	- 7% withholding tax for both foreign corporate shareholders regardless of PE status and foreign individual shareholders without a PE in Japan. - 10% withholding tax for foreign individual shareholders with a PE in Japan. - May benefit from tax treaties.
Capital gain from share -disposition	- Taxed in limited cases only for foreign individual shareholders without a PE in Japan. - Standard corporate tax rate for foreign corporate shareholders with a PE in Japan.	- Taxed in limited cases only for foreign individual shareholders without a PE in Japan. - 10% income tax, until December 31, 2011, and 20% thereafter, taxed separately from ordinary income, for foreign -individual investors with a PE in Japan.	- N/A

Corporate shareholder

(Dividends)

For foreign corporate shareholders without a PE in Japan, dividends from a listed J-REIT are subject to a final withholding tax at a reduced tax rate of 7%, which treatment was recently extended until December 31, 2011, and thereafter at the original tax rate of 15%. Corporate shareholders without a PE in Japan are not subject to corporate income tax on dividend income. The rate of withholding tax could be reduced or exempted by application of a relevant income tax treaty. Foreign corporate shareholders having a PE in Japan are taxed similarly to domestic corporate shareholders.

(Capital gain)

Capital gain arising from a disposition of J-REIT shares is not subject to withholding tax. A J-REIT is treated as a Japanese Real Property Holding Corporation (JRPHC) if at least 50% of its total assets consist of real estate located in Japan, which is usually the case with a J-REIT. Foreign corporate shareholders without a PE in Japan are subject to Japanese corporate tax on the capital gain arising from a disposition of shares of a J-REIT that is a JRPHC, only if the disposing shareholder (together with its affiliates, including a partnership in which the investor is a partner) owned more than a certain percentage of the total outstanding shares of the J-REIT as of the day immediately preceding the first day of the taxable year during which the disposition takes place. The threshold percentage is 5% for listed J-REIT shares and 2% for non-listed J-REIT shares. The disposing shareholder, if taxed, must file a corporate tax return. Again, foreign corporate shareholders having a PE in Japan are taxed similarly to domestic corporate shareholders.

Capital gain arising from a disposition of J-REIT shares may be entitled to a reduced tax rate or exempted from tax by application of a relevant income tax treaty.

Individual shareholder

(Dividends)

For foreign individual shareholders without a PE in Japan, dividends from a listed J-REIT are subject to a final withholding tax at the rate of 7%, until March 31, 2011 and thereafter at 15%. However, foreign individual shareholders who own 5% or more of the total outstanding shares of a listed J-REIT are subject to a final 20% withholding tax. The rate of withholding tax could be reduced or exempted by application of a relevant income tax treaty. Individual shareholders having a PE in Japan are taxed similarly to domestic individual shareholders.

(Capital gain)

Foreign individual shareholders without a PE in Japan are taxed similarly on capital gain arising from a disposition of J-REIT shares as in the case of foreign corporate shareholders without a PE (see above). The only major difference is that corporate shareholders without a PE in Japan are subject to a 30% flat rate corporate income tax (no local income tax applies), whereas individual shareholders without a PE in Japan are subject to individual income tax at regular progressive tax rates (and therefore must file an income tax return as opposed to a corporate tax return; no local income tax applies). Again, foreign individual shareholders having a PE in Japan are taxed similarly to domestic individual shareholders.

Withholding tax

For both corporate and individual shareholders without a PE in Japan, dividends from a listed J-REIT are subject to withholding tax at the rate of 7% until December 31, 2011, and thereafter at 15%. However, individual shareholders owning 5% or more of the total outstanding shares of a J-REIT as of the record date are subject to 20% withholding tax. ■

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Global REIT Survey 2011

September

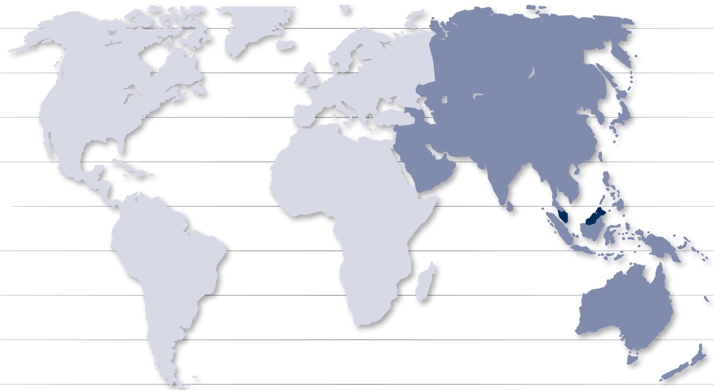
EPRA | REPORTING

European Public Real Estate Association

Asia

Malaysia

(Unit trust)



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- General introduction
- Requirements
- Tax treatment at the level of REIT
- Tax treatment of the unit holder's level
- Tax treatment of foreign REIT and its domestic unit holder

For any questions or feedback related to this survey, please contact:

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1 General introduction

	Enacted year	Citation	REIT type
Unit trust	The Securities Commission (SC) had issued Guidelines on 'Property Trust Funds' in 2002, which were superseded by the issuance of REIT Guidelines in January 2005. Further updates were issued by way of Guidance Notes issued in 2005, 2006 and 2007. All of the above were further superseded by the revised Guidelines on REITs issued by the SC on August 21, 2008.	- Capital Markets and Services Act, 2007 (CMSA). - SC Guidelines on REITs of 2008. - Malaysia Income Tax Act, 1967 (MITA). - SC Guidelines for Islamic REITs of 2005.	Trust type.

The Real Estate Investment Trust is a part of Malaysian law. Specific REIT guidelines have been issued and REIT-specific tax provisions have been introduced. The REIT guidelines were amended in 2005, 2006, 2007 and 2008.

MALAYSIAN ISLAMIC REIT:
The Islamic REIT is a collective investment scheme in real estate, by which the unit holders conduct permissible activities according to Shariah Law. Specific Islamic REIT guidelines were issued in 2005.

Currently there are 14 REITS operating. Market capitalisation is approximately RM 11 billion (approximately USD 3.67 billion) at an exchange rate of RM 2.99424 per USD 1 in April 2011.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance- 12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Malaysia	14	20,6	2,8	0,5%

Top five REITs

Company Name	Market cap (€m)	Sector type
Sunway Real Estate Investment Trust	718	Leisure, Office, Parking, Residential, Retail
CapitaMalls Malaysia Trust	462	Retail
Starhill Real Estate Investment Trust	253	Hotel, Retail
Axis Real Estate Investment Trust	230	Industrial, Office, Retail
Al-Hadharah Boustead REIT	217	Agricultural

2 Requirements

2.1 Formalities / procedure

Key requirements
- Registered trust. - Trustees must be approved by the SC. - Management company. - Real estate held by the trust must be managed by a qualified property manager. - Appoint a Shariah committee or a Shariah advisor (Islamic REIT).

In Malaysia, trusts have to be registered. Malaysian trustees must be approved by the SC.

The trust must be managed and administered by a management company approved by the SC. The management company (except where the management company is licensed by the SC) must be a subsidiary of (a) a company involved in the financial services industry in Malaysia, (b) a property development company, (c) a property investment holding company or (d) any other institution which the SC may permit.

Foreigners can hold up to 70% of the equity of the management company. At least 30% of the equity of the management company must be held by Bumiputra (indigenous) shareholders.

Real estate held by the trust must be managed by a qualified property manager.

MALAYSIAN ISLAMIC REIT:

Same requirements as above and additionally a Shariah committee or a Shariah advisor must be appointed to ensure that any property acquired by an Islamic REIT is Shariah-compatible.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Unit trust	RM 100 million (approx USD 33.4 million in April 2011)

Legal form

A REIT takes the form of a unit trust fund. It must be registered in Malaysia and approved by the SC.

Minimum initial capital

The minimum fund size is RM 100 million (approximately USD 33.4 million, based on an exchange rate of RM 2.99424 to USD 1).

If any trustee member of the REIT is a tax resident in Malaysia in the basis period for a tax year, the REIT will be a tax-resident person for Double Taxation Treaty purposes. There is uncertainty as to whether a distribution from a REIT would fall under the dividend article, business profit article, or the other income article. Pending the amendment to existing Double Taxation Treaty to be in line with OECD's proposal on REIT's distribution, the REIT's distribution is likely to be categorised as "other income" unless the non-resident recipient can demonstrate otherwise (e.g. business profits).

2.3 Unit holder requirements / Listing requirements

Unit holder requirements	Listing mandatory
No requirements	No

Unit holder requirements

There are no requirements.
There is no restriction on foreign unit holders in the REIT, but foreigners cannot hold more than 70% of the equity in the REIT's management company.

Listing requirements

A REIT can be either listed or unlisted. A REIT seeking to list its units must comply with the listing requirements, as detailed in chapter 4 of the Bursa Malaysia Securities Berhad (LR) and in chapter 13. of the REIT guidelines. These requirements include the following:

- the applicant must have at least 25% of the total number of units for which listing is sought in the hands of a minimum number of 1,000 public unit holders holding not less than 100 units each;
- for the purpose of calculating the required minimum public holding, holdings by the management company, its directors and any person connected with such management company or directors shall be disregarded;
- the applicant must ensure that at least two directors or 1/3 (or the nearest number) of the board of directors of the applicant, whichever is higher, are independent directors;
- the management company of the REIT is subject to the SC's approval and a prospectus of the public offering is to be issued and registered with the SC. Subsequently, an application is to be made with Bursa (the Malaysian Stock Exchange) for listing of and quotation for the units.

2.4 Asset levels / activity test

Restrictions on activities / investments
- Restriction applies on the level of investments. - Additional restrictions for Islamic REITs.

A REIT may only invest in the following:
a. Real estate;
b. Single-purpose asset owning companies (a 'single purpose company' means an unlisted company whose principal assets comprise of real estate);
c. Real estate-related assets;
d. Non-real estate-related assets; and
e. Cash, deposits, and money market instruments.

At least 50% of the REIT's total asset value must be invested in real estate and/or single-purpose companies investing into real estate at all times.

A REIT's investment in non real estate-related assets and/or cash, deposits and money market instruments must not exceed 25% of a REIT's total asset value.

The above applies to both listed and unlisted REITs.

All REITs may acquire real estate located outside Malaysia where the real estate is viewed as a viable investment. The management company must ensure that the relevant rules, guidelines and laws are complied with and that approvals/authorisations from the relevant authorities (domestic and foreign) have been obtained prior to acquisition.

All REITs may invest in real estate-related assets and non real estate-related assets, and these assets may consist of foreign investments traded in or under the rules of a foreign market (a market where the regulatory authority is a member of the International Organisation of Securities Commissions (IOSCO)).

REITs are not permitted to conduct the following activities:
a. extension of loans or any other credit facility;
b. property development; and
c. acquisition of vacant land.

REITs may acquire property that is under construction or uncompleted real estates of up to 10% of its total asset value, provided that certain criteria listed in the SC Guidelines are met.

The REIT's investment may consist of placement of deposits provided it is with a licensed institution.

A REIT may not invest in any other companies apart from single-purpose companies.

Malaysian Islamic REIT:
Further restrictions apply to the Islamic REIT. Islamic REITs are permitted to acquire real estate for the purpose of various activities. However, the fund manager must ensure that the rental income from non-permissible activities under Shariah Law does not exceed 20% of the total turnover of the Islamic REIT.

The Islamic REIT cannot accept new projects which are composed of fully non-permissible activities or purchase existing projects which are composed of non-permissible activities.

Non-qualifying/permissible rental activities are financial services which are based on riba (interest). Such activities include gambling/gaming, the manufacture or sales of non-halal products or related products, conventional insurance, entertainment activities that are non-permissible according to the Shariah, the manufacture or sale of tobacco-based products or related products, stock brokerage or share trading in Shariah non-compatible securities and hotels/resorts.

2.5 Leverage

Leverage
Borrowing may not exceed 50% of the total asset value.

The basic rule is that the total borrowings may not exceed 50% of the total asset value of the fund unless authorised by the unit holders by way of an ordinary resolution.

A Malaysian REIT can only borrow from institutions that are licensed (or deemed to be licensed) under the Banking and Financial Institution Act 1989 and Islamic Banking Act 1983. It can also issue debentures.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of total income	N/A	Annually

Operative income
Malaysian REITs are not required to make any minimum distribution of income but REITs will only benefit from a tax exemption provided at least 90% of their total income for the year is distributed to its investors.

Capital gains
There is no requirement in the MITA for capital gains to be distributed every year. The 90% threshold applies to total income of the REIT. Total income refers to income of a REIT that would ordinarily be chargeable to tax. It should be noted that there is no capital gains tax in Malaysia, except for real property gains tax (RPGT) at an effective rate of 5% on disposal of real properties or shares in a real property company held as a long-term investment within five years of the date of acquisition (effective from January 01, 2010). If, however, the disposal of real properties or shares occurs after the five-year threshold then the sale will be exempted from RPGT.

2.7 Sanctions

Penalties / loss of status rules
Various sanctions possible, including revocation of approval.

Where a person breaches the provisions of the CMSA or fails to comply with, observe, enforce or give effect to any written notice, guidelines issued or conditions imposed by the SC, the SC may take one or more of the following actions:

- direct the person in breach to comply with, observe, enforce or give effect to such rules, provisions, written notice, condition or guideline;
- impose a penalty in proportion to the severity or gravity of the breach, but in any event not exceeding RM 500,000 (approx USD 167,000 in April 2011);
- reprimand the person in breach;
- require the person in breach to take such steps as the SC may direct to remedy the breach or to mitigate the effect of such breach, including making restitution to any other person aggrieved by such breach; or any other actions in accordance with the CMSA.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Tax-exempt if 90% of total income is distributed.	Tax-exempt.	- Creditable for taxable income. - Not refundable for non-taxable income.

Current Income
REITs will not be taxed on their income, provided that at least 90% of their total income for the year is distributed to its investors. Otherwise, the REIT is subject to income taxes on its total income, while the investors are eligible to claim tax credits. The amount distributed is taxable in the hands of unit holders.

A corporate tax deduction on start-up expenses incurred during REIT establishment (e.g. consultancy, legal and valuation fees) is available.

With effect from tax year 2008, a company disposing of an industrial building (on which capital allowances have been claimed previously) to REITs will not be subject to balancing adjustments whilst REITs would continue to claim capital allowance on such buildings based on the residual expenditure of the building in the tax returns of the seller.

Capital gains

With effect from January 01, 2010, gains from the disposal of real properties and shares in real property companies are subject to a RPGT at an effective rate of 5% if the disposal takes place within five years from the date of acquisition. If, however, the disposal of real properties or shares occurs after the five-year threshold then the sale will be exempted from RPGT. Chargeable gains on the disposal of a chargeable asset to REIT are exempted from RPGT under a specific exemption order.

Tax suffered at source on dividend income

Malaysia does not levy dividend withholding taxes.

With effect from January 01, 2008, Malaysia operates a single tier tax system with respect to dividends distribution. Under this system, tax paid on profits of a company is a final tax and dividends distributed by a company into which the REIT invests (usually a minority interest) are exempt in the hands of the REIT.

There is a transitional period which allows companies with franking credits as at December 31, 2007 to distribute franked dividends under the previous dividend imputation system for a period of six years, i.e. until December 31, 2013. Where dividends are distributed under this system, there may be a tax deducted at source from dividends received by the REIT. Such tax will be available for set-off against the tax liability of the REIT. Should the tax deducted at source exceed the tax liability of the REIT, the excess is refundable to the REIT.

If an overseas jurisdiction levies a withholding tax, the REIT will not be able to obtain a credit for such tax if the income is exempt in Malaysia. If, however, the income is taxable it may be possible for the REIT to claim a credit in respect of the foreign tax suffered.

Accounting rules

The financial statement of a REIT shall be prepared in accordance with applicable approved accounting standards (FRS), applicable statutory requirements, the deed and any regulatory requirements.

3.2 Transition regulations

Conversion to REIT status
N/A

3.3 Registration duties

Registration duties
Stamp duty exemption.

There is a stamp duty exemption on the transfer of properties to an approved REIT. Other than stamp duty, there are currently no other duties / taxes imposed on the transfer or properties in Malaysia.

4 Tax treatment of the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- 25% income tax on distributions (tax year 2009 onwards). - No capital gains tax.	Income not taxed at REIT level: Withholding tax final levy at a rate of 10% applies up to December 31, 2011. After this date the rate will increase to 15%, unless the 10% rate is extended in the October 2011 Budget. Income taxed at REIT level: Tax rates of 0-26% (tax year 2010 onwards) on gross income from REIT distributions in the hands of individual investors. Such income carries a tax credit. - No capital gains tax.	No withholding tax levied on distributions to corporate unit holder. Withholding tax on resident individual investors at a rate of 10% applies up to December 31, 2011. After this date the rate will increase to 15% unless the 10% rate is extended in the October 2011 Budget.

Corporate unit holder
Distribution from income on which the REIT is exempt from tax:
Income distributed from the REIT will be taxed at 25% for the tax year 2009 onwards. Corporate unit holders with paid-up capital in respect of ordinary shares of not more than RM 2.5 million at the beginning of the tax basis period will be subject to tax at 20% on the first RM 500,000 of chargeable income and 25% on the balance.

There is no capital gains tax in Malaysia except for real property gains tax at an effective tax rate of 5% on disposal of real properties or shares in a real property company held as a long-term investment within five years of the date of acquisition (effective from January 01, 2010). If, however, the disposal of real properties or shares occurs after the five-year threshold then the sale will be exempted from RPGT.

Distribution from income on which the REIT has been taxed:
Same as above.

Individual unit holder
Distribution from income on which the REIT is exempt from tax:
Distributions made by a REIT to individual unit holders are subject to a final withholding tax of 10% (this rate applies to the period from January 01, 2009 to December 31, 2011). If this rate is not extended in the next Budget announcement in October 2011, REIT dividends received after December 31, 2011 will be subject to a final withholding tax of 15% for non-corporate investors from January 01, 2012 onwards.Individual unit holders who receive the net amount distributed need not account for any further income tax liability.

There is no capital gains tax in Malaysia except for real property gains tax at an effective tax rate of 5% on disposal of real properties or shares in a real property company held as a long-term investment within five years of the date of acquisition (effective from January 01, 2010). If, however, the disposal of real properties or shares occurs after the five-year threshold then the sale will be exempted from RPGT.

Distribution from income on which the REIT has been taxed:
The amount distributed from the REIT will be grossed up to take into account the underlying tax of the REIT and the individual unit holder will be taxed on the gross distribution at progressive tax rates ranging from 0% to 26% (from 2010 onwards).

Such distributions carry a tax credit, which will be available for set-off against the tax chargeable on the unit holder.

There is no capital gains tax in Malaysia except for real property gains on disposal of real properties or shares in a real property company held as a long-term investment within five years of the date of acquisition (effective from January 01, 2010). If, however, the disposal of real properties or shares occurs after the five-year threshold then the sale will be exempted from RPGT.

Withholding tax
Withholding tax of 10% for a unit holder other than a unit holder which is a resident company is a final tax (this rate applies to the period from January 01, 2009 to December 31, 2011). If this rate is not extended in the next Budget announcement in October 2011, REIT dividends received after December 31, 2011 will be subject to a final withholding tax of 15% for non-corporate investors from January 01/ 2012 onwards. A REIT does not need to withhold tax when making distributions to a resident company – such companies would need to declare the REIT distributions as taxable income and the income will be taxed at the relevant rate discussed above.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- 25% in the tax year 2009 and onwards. - 10% for institutional investors up to December 31, 2011. After this date the rate will increase to 20% unless the 10% rate is extended in the October 2011 budget.	10% for individuals up to December 31, 2011. After this date the rate will increase to 15%, unless the 10% rate is extended in the October 2011 budget.	No specific relief available.

Corporate unit holder
Distribution from income on which the REIT is exempt from tax:
Distributions to non-resident companies are subject to withholding tax of 25% from the year 2009 onwards.

Distributions to non-resident institutional unit holders are subject to a final withholding tax of 10% (this rate applies to the period from January 01, 2009 to December 31, 2011). If this rate is not extended in the next Budget announcement in October 2011, REIT dividends received after December 31, 2011 will be subject to a final withholding tax of 20% for foreign institutional investors.

Distribution from income on which the REIT has been taxed (after failure to meet distribution criteria):
Non-resident companies – The amount distributed from the REIT will be grossed up to take into account the underlying tax of the REIT, and non-resident companies will be taxed on the gross distribution at 25%, with a tax credit given on the underlying tax of the REIT.

Non-resident institutional unit holders – The amount distributed from the REIT will be grossed up to take into account the underlying tax of the REIT, and non-resident institutional unit holders will be taxed on the gross distribution at 25% with a tax credit given on the underlying tax of the REIT. An institutional investor is defined as "a pension fund, collective investment scheme or other such persons approved by the Minister".

Individual unit holder
Distribution from income on which the REIT is exempt from tax:
Distributions to non-resident individuals are subject to a final withholding tax of 10% (this rate applies to the period from January 01, 2009 to December 31, 2011). If this rate is not extended in the next Budget announcement in October 2011, REIT dividends received after December 31, 2011 will be subject to a final withholding tax of 20% for foreign institutional investors.

Distribution from income on which the REIT has been taxed:
The amount distributed from the REIT will be grossed up to take into account the underlying tax of the REIT, and the non-resident individual unit holder will be taxed on the gross distribution at 26% from 2010 onwards.

Withholding tax
If withholding tax is levied, such tax will be a final tax for Malaysian purposes. As such, unit holders receiving the net amount distributed need not account for any further income tax liability in Malaysia.

No specific relief available under tax treaties. However depending on the practice of the receiving country treaty protection may be sought under general unilateral double-taxation elimination rules.

5 Tax treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Taxation subject to Double Tax Treaty	Tax-exempt.	Tax-exempt.

Foreign REIT

Income of the foreign REIT will only be taxed in Malaysia if it is accrued in or derived from Malaysia, subject to the provisions of the relevant double tax treaties between Malaysia and the jurisdictions in which the foreign REIT is established.

Corporate unit holder

Distributions received from foreign REITs would be regarded as foreign-sourced income and exempt from Malaysian tax pursuant to Paragraph 28, Schedule 6 of the Malaysian Income Tax Act, 1967.

Individual unit holder

Same as corporate unit holders. ■

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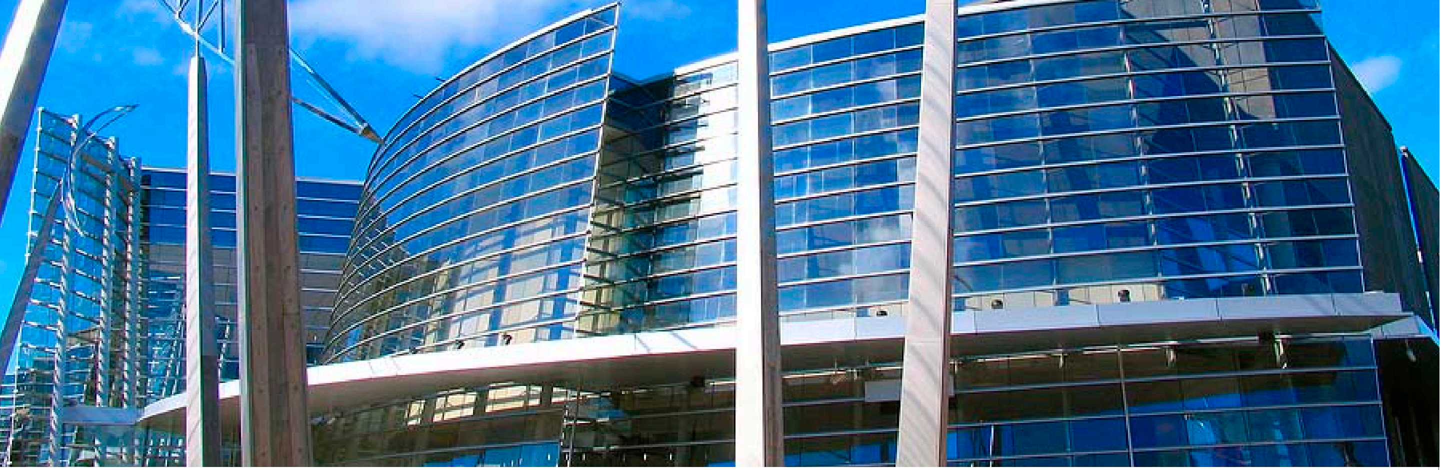


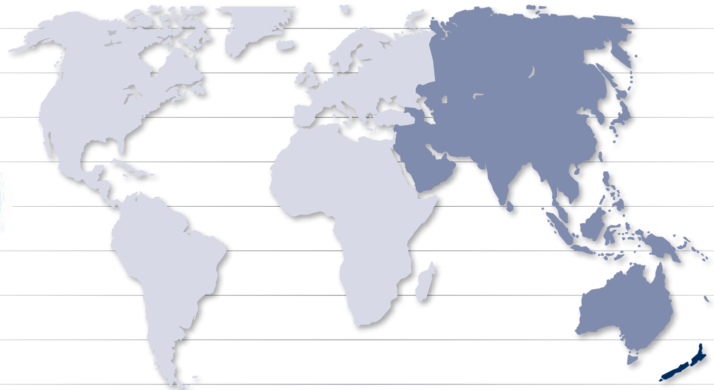
Global REIT Survey 2011

September

Asia

New Zealand

(Unit trusts and PIEs)



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- Tax treatment of foreign REITs and their domestic unit holders

For any questions or feedback related to this survey, please contact:

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European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type
Unit trust	1960	- The Trustee Act 1956 - Unit Trusts Act 1960 - Income Tax Act 2007 (from the 2008-09 income year)[1]	- Trust type - Corporate type (Shows some characteristics of a REIT)
Portfolio Investment Entity ('PIE')	2007		

New Zealand does not have any specific REIT regime and it is not expected that any such specific regime will be introduced in the near future. Some unit trusts and companies investing in real property interests and meeting the eligibility criteria may elect to enter the 'Portfolio Investment Entity' (PIE) regime[2]. As noted below, income derived by a PIE may be able to be allocated to individuals and taxed once at the PIE level for some New Zealand resident individual investors, at a prescribed investor rate between 10.5% and 28%[3], with no further New Zealand tax on distribution.

The primary aim of the PIE regime is to provide an income tax treatment for New Zealand resident individuals investing through collective investment vehicles, which is similar to the treatment which would apply if they invested directly. To this end, PIEs disposing of certain Australasian shares will not be taxed on those proceeds, and net taxable income allocated to New Zealand resident individual investors will generally be taxed at the PIE level at rates reflecting or lower than their marginal personal tax rates with no further tax on allocation of other gains or on distribution.

[1] The PIE provisions were first enacted in 2006, being inserted into the Income Tax Act 2004 by the Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 with various subsequent amendments.
[2] With effect from October 01, 2007
[3] From October 01, 2010; previously between 12.5% and 30%

Legislation is currently in the process of being enacted to facilitate investment by non-residents in unlisted PIEs. The aim is to achieve New Zealand tax costs for non-resident investors in unlisted PIEs that would not exceed the New Zealand tax costs if they invested directly, including a possible zero tax cost in respect of a PIE's foreign-sourced income. It is proposed, however, that PIEs cannot invest in New Zealand land if they wish to apply the new, reduced tax rates to income allocated to non-resident investors.

Unit trusts are sometimes used for investing in real property (as well as for other investments), particularly (but not necessarily) where funding is sought from the public. There is no minimum or maximum limitation on the type of asset held by a unit trust or on the amount invested. Discretionary trusts may be used but are more appropriate for private investments and would not be used where funds are sought from the public.

Trusts are created under New Zealand's trust law and are generally regulated by the terms of the trust deed. The Trustee Act 1956 applies to all trusts, while the Unit Trusts Act 1960 applies where units in a unit trust are offered to the public.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
New Zealand	8	20,5	2,4	0,4%

Top 5 REITs

Company Name	Market cap (€m)	Sector type
Kiwi Income Property Trust	598	Office, Others, Retail
Goodman Property Trust	574	Industrial, Land, Office
AMP NZ Office Ltd	510	Office
Argosy Property Trust	282	Industrial, Office, Retail
Vital Healthcare Property Trust	205	Healthcare

2 Requirements

2.1 Formalities / procedure

Key requirements
- Registration of the trust with the Registrar of Companies. - Issue of a registered prospectus.

Unit trusts are generally established by means of an initial settlement on terms expressed in a trust deed. Where units in a unit trust are offered to the public, the Unit Trusts Act 1960 requires registration of the trust deed with the Registrar of Companies and issue of a registered prospectus complying with the Securities Act 1978 and Securities Regulations 2009[4]. The trust must have a corporate manager, which deals with investors and manages the trust's investments, and a trustee, who must not be under the same control as the manager.

Some companies and unit trusts investing in real property interests and meeting the eligibility criteria have been able to elect to enter the PIE regime with effect from October 01, 2007. No specific licence or approval is required to enter the PIE regime, but the entity must meet the various statutory criteria as to investors' rights to investment proceeds, the number and type of investors, the extent of each investor's interests, and the types of investment and income.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
- Unit trust or company. - Portfolio Investment Entity (PIEs).	No

Legal Form

Unit trusts or companies investing in real property interests.

[4] From October 01, 2009. The Securities Regulations 1983 continue to apply to prospectuses registered before that date and may continue to apply in some circumstances to prospectuses registered or securities offered between October 01, 2009 and June 30, 2010.

PIEs may be New Zealand resident companies or unit trusts, superannuation funds (superannuation schemes registered with the Government Actuary under the Superannuation Schemes Act 1989 or under the KiwiSaver legislation), group investment funds (established under the Public Trustee or Trustee Companies legislation) or certain life insurance funds.

Minimum share Capital

There is no minimum or maximum limitation on the amount of capital for a company, unit trust or a PIE.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
- No restrictions for unit trusts or companies which are not PIEs. - Restrictions apply to the number and type of investor/unit holder in a PIE.	No

No restrictions apply for unit trusts or companies which are not PIEs.

Unit holder requirements for PIEs

If the entity is not listed on the NZ Stock Exchange, the portfolio investor class must generally include one or more of the following:

- at least 20 non-associated persons, none of whom holds more than 20% of the total portfolio investor interests in the class;
- a PIE or a foreign PIE equivalent investment vehicle;
- an entity which would meet the PIE criteria but has not elected to become a PIE;
- a life insurer;
- the NZ Superannuation Fund;
- the Accident Compensation Corporation or a Crown entity subsidiary of same;
- the Earthquake Commission;
- a 'public unit trust' if it has at least 100 unit holders (whose interests do not exceed 25% each or who are unit trust managers) or if it can otherwise be regarded as 'widely held' or if its units are held by widely-held investment vehicles.

Unlisted unit trusts with at least 100 members, which meet certain 'public unit trust' criteria or are otherwise considered to be 'widely held', and certain superannuation funds may not need to meet the above specific criteria.

If the entity is listed on the NZ Stock Exchange, all the following investor criteria must be met:
- the entity must not have more than one portfolio investor class; and
- each investor must be a member of that class; and
- each portfolio investor interest must be a share/unit traded on the stock exchange.

The general 20% maximum holding for investors is extended to 40% for certain institutional investors where the entity is a listed company or unit trust and no maximum limit will apply to such investors where the entity is not a listed company or unit trust. A transitional provision may protect PIE eligibility where interests of between 20% and 40% in a listed company or unit trust have been held since May 17, 2006. Interests held by associated persons may need to be taken into account in determining whether the investor interest size limits are exceeded.

Listing requirements

The NZ Stock Exchange Listing requirements apply if shares or units are to be traded on the stock exchange.

Some PIE eligibility criteria vary according to whether or not the entity is listed. The taxation of income allocated to NZ resident individual investors at the investors' prescribed investor rates applies only where the PIE is not a NZ-listed company or unit trust.

2.4 Asset level / activity test

Restrictions on activities / investments
- No limitations if not PIEs - Diverse thresholds for PIEs

No limits apply to the activities or investments of unit trusts or companies which are not PIEs.

At least 90% of the value of a PIE's assets must be one or more of the following:
- land;
- financial arrangements (such as debts and debt-type instruments);
- excepted financial arrangements (such as shares and units in unit trusts);
- rights or options over the above types of assets.

At least 90% of the income derived by a PIE must be derived from the above types of property and must consist of any one or more of the following:
- dividends (or equivalent payments under certain share-lending arrangements);
- financial arrangement accrual income (including interest and related premiums and foreign exchange variations);
- rent (from non-associated parties);
- property disposal proceeds;
- income under the 'foreign investment fund' (FIF) rules;
- allocated PIE income;
- distributions from superannuation funds.

Investments by the PIE in shares in a company or units in a unit trust must generally:
- carry voting interests of no more than 20% in a company or have a market value of no more than 20% of the total market value of the units in a unit trust; or
- where the PIE's interest exceeds 20%, the total market value of that and all the PIE's other investments of more than 20% in companies or unit trusts must not exceed 10% of the total market value of all the PIE's investments.

The 20% interest or 10% investment value limitation does not apply to investments by the PIE in any of the following:
- another PIE;
- a foreign PIE equivalent investment vehicle;

- an entity that meets the PIE criteria but has not elected PIE status;
- a land investment company[5] (a company or unit trust which is not a PIE and which owns land (directly or indirectly through another company) representing at least 90% of the market value of all the land investment company's property for certain periods during the relevant income year).

An entity carrying on a business of life insurance is not eligible to be a PIE except in respect of separate identifiable funds holding investments which are subject to life insurance policies where the policy benefits are directly linked to the value of the funds' investments.

An entity will not be eligible to be a PIE if it is NZ resident under New Zealand's domestic income tax legislation but is regarded as not being NZ resident under the provisions of a double tax treaty.

Where a listed company or unit trust is a PIE, it must apply the maximum imputation (franking) credits available to all distributions.

If an entity has previously ceased being a PIE, it cannot elect to be a PIE again until at least five years have passed.

2.5 Leverage

Leverage
No specific restriction.

There are generally no restrictions on debt levels for entities investing in real property, other than:

- The need for arm's length terms where any related party debt is provided; and
- Possible thin capitalisation limitations for interest (and related foreign exchange) deductions if a single overseas person (together with associates) holds (directly or indirectly) or controls at least 50% of the New Zealand company or unit trust (for these purposes, the 'safe harbour' New Zealand group debt percentage will reduce from 75% to 60% from taxpayers' 2011-2012 income years); and
- For trusts other than unit trusts, there must be sufficient connection between the borrowings and the derivation or possible derivation of New Zealand taxable income.
- For income years beginning on or after July 01, 2009, there are also possible thin capitalisation limitations for interest (and related foreign exchange) deductions for New Zealand resident entities which hold (directly or indirectly) or control an income interest of at least 10% in a "controlled foreign company" (which may include a foreign unit trust). Legislation is currently in the process of being enacted to extend these thin capitalisation limitations to New Zealand residents with income interests of at least 10% in certain 'foreign investment funds' (foreign companies or unit trusts) which are subject to the proposed active income or Australian exemptions from attribution of their income.

[5] Previously called a 'portfolio land company'

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
No requirement, but taxation of income not allocated.	No requirement.	Annually.

Operative income
Unlisted PIEs will allocate taxable income to investors. If taxable income is not allocated to investors for each period, it will be taxed at the PIE's tax rate. Distributions of income by unlisted PIEs are not taxable to investors while distributions by listed PIEs may be fully or partly taxable to some investors.

Capital gains
Unlisted PIEs are able to allocate capital gains to investors without a tax cost on allocation or subsequent distribution. Distributions of capital gains by listed PIEs may be fully or partly taxable to some investors to the extent any imputation credits are attached.

2.7 Sanctions

Penalties / loss of status rules
Loss of PIE status and loss of PIE tax treatment.

If an entity loses PIE status, the income tax treatment of its disposals of certain Australasian shares would generally become taxable again and distributions to New Zealand resident individual investors would revert to being fully taxable at their marginal tax rates.

3 Unit Trust tax treatment

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Subject to standard corporate tax rate (28% from 2011-2012 income year; previously 30%).	Gains may be taxable depending on circumstances.	Generally subject to resident withholding tax of 33%, reduced by the amount of imputation (franking) -credits attached.

Current income

Unit trusts treated as companies for income tax purposes are subject to income tax at the standard corporate rate (28% from their 2011-2012 income years; 30% for their 2008-2009 to 2010-2011 income years) and, if solely tax resident in New Zealand, are subject to the imputation (franking) regime, whereby they can pass the benefit of income tax paid to unit holders by attaching imputation credits to distributions.

For trusts other than unit trusts, the trustees are subject to tax at 33% on income that is not paid, applied to or vested in beneficiaries on a current year basis. The extent to which income from non-New Zealand sources is taxable in New Zealand generally depends on complex rules relating to the residence of settlors or deemed settlors of such trusts. Where trusts meet certain ('complying trust')[6] criteria (including being liable to full New Zealand income tax on all income flowing through the trust which is not treated as current year beneficiary income), no further New Zealand income tax or withholding tax will apply to subsequent distributions of retained earnings or capital gains.

PIEs which are listed companies or unit trusts will be taxed on all taxable income at 28% (from their 2011-2012 income years; previously 30%).

PIEs (other than listed companies or unit trusts) will allocate their taxable income to investors and account for tax at an investor's elected rate of either 28%, 17.5%, 10.5% or 0% from October 01, 2010 (previously 30%, 21%, 12.5% or 0%). For investors who have notified the correct tax rate to the PIE, the tax paid by the PIE on their behalf will be a final tax and represents a favourable tax treatment for New Zealand resident individual investors with a marginal personal tax rate of 33%.[7] The PIE regime is also intended to remove effective over taxation for individuals investing through companies or unit trusts where their marginal personal tax rate is less than the current corporate or unit trust tax rate of 28% (from their 2011-2012 income years; previously 30%).

For New Zealand income tax purposes, companies, unit trusts and PIEs generally recognise rental or other business income on an accrual basis and dividends on a cash basis. Income (and expenditure) relating to debt instruments and other debt-type financial arrangements is subject to specific rules which generally require recognition on an accrual basis and treat all related gains (whether of an income or capital nature) as taxable although not all losses on such financial arrangements may be deductible.

[6] Previously called 'qualifying trust'

[7] 39% up to the end of the 2008-09 income year, then 38%; top personal tax rate reduced from October 01, 2010 from 38% to a composite rate of 35.5% for the tax year ended March 31, 2011, then reduced to 33% from April 01, 2011.

No tax depreciation can be claimed on most buildings from the beginning of taxpayers' 2011-2012 income years. The previous 20% loading on tax depreciation rates for new plant and equipment no longer applies for items acquired from May 21, 2010. The income tax treatment of commercial building "fit out" items was reviewed in 2010. Tax depreciation can continue to be claimed on such items (but not on dwelling 'fit out' that is part of a building).

New Zealand resident entities may generally claim credits against their New Zealand income tax liabilities for foreign income taxes paid on foreign-sourced income up to the amount of New Zealand income tax payable on the particular income. Excess foreign tax credits cannot be refunded or carried forward or back to any other income year. Unlisted PIEs may utilise foreign tax credits in determining the tax payable at the PIE level on income allocated to investors. Investors in such PIEs may be able to utilise foreign tax credits allocated to them if they are directly taxable on their allocated PIE income (see section 4).

Capital gains

While New Zealand has no specific capital gains tax, gains on disposal of property interests can be taxable in a number of situations specified in the income tax legislation. The circumstances when personal property interests, such as shares or units in unit trusts, may be treated as 'revenue account property' for income tax purposes, with disposal proceeds treated as taxable income, are outlined in section 4 below. Disposals of direct interests in land can be taxable in a wider range of circumstances, also including, for example, certain situations where subdivisions or other developments are carried out, or where zoning or resource management matters arising since acquisition contribute to profit, or where the vendor was associated with entities carrying on business as land dealers, developers or builders at the time the land was acquired.

Withholding tax

Distributions received by New Zealand resident companies or unit trusts from other New Zealand resident companies or unit trusts are generally subject to resident withholding tax of 33%, reduced by the amount of imputation (franking) credits attached. Such withholding tax is deducted on account of the recipient's annual income tax liability and is not a final tax. It may be refunded if there is an excess of tax paid over the recipient's net income tax liability on an annual return basis. Imputation (franking) credits cannot be refunded in cash, however.

In certain circumstances, taxpayers may obtain resident withholding tax exemption certificates from Inland Revenue so that no withholding tax needs to be deducted, although the dividends may still be taxable on an annual return basis.

No resident withholding tax would apply to dividends where the New Zealand companies or unit trusts are regarded as tax group companies, that is, broadly, where they are at least 66% commonly owned, although the dividends would still be taxable on an annual return basis unless the companies or unit trusts are 100% commonly owned.

Where the New Zealand companies or unit trusts are 100% commonly owned, dividends between them will generally be totally exempt from income tax and no withholding tax will apply.

Where PIEs receive dividends from other New Zealand companies or unit trusts, credits for resident withholding tax deducted and imputation credits may be utilised in determining the tax payable at the PIE level or, in certain circumstances relating to unlisted PIEs, may be allocated to investors or rebated to the PIE.

For dividends received by foreign entities from New Zealand companies or unit trusts, please refer to the comments in section 4.2.

For dividends received by New Zealand resident companies or unit trusts from foreign REITs, please refer to the comments under the 'Corporate shareholders' heading in section 5.

Other taxes

The Goods and Services Tax (GST) treatment of investment trusts and related costs needs to be considered and managed. This tax is a VAT. GST may apply to transfers or other supplies of land in New Zealand at the standard rate of 15% (from October 01, 2010; previously 12.5%), although sales of tenanted commercial properties may be zero-rated in certain circumstances and supplies of domestic dwellings may be exempt from GST. Certain supplies between GST-registered parties from April 01, 2011, which consist wholly or partly of land, are generally zero-rated for GST purposes if the recipients are acquiring the land for use in making GST-taxable supplies and not for use as their (or certain relatives') principal place of residence. In such circumstances, the recipients (rather than the suppliers) will generally be liable to account for any GST at the standard 15% rate if it turns out that the supplies should not have been zero-rated.

The basis for claiming GST input tax credits on goods and services acquired also changed for supplies made from April 01, 2011. Initial GST input tax claims must now generally be based on the proportion of a taxpayer's estimated GST-taxable use compared with GST-exempt or other use, rather than on the previous principal purpose basis.

GST issues should be considered before any structures are established or land transactions are entered into in order to ensure that they can be managed appropriately.

Accounting Rules

Companies and unit trusts which offer units to the public are generally subject to the accounting requirements of the Financial Reporting Act 1993 and are generally required to apply NZ International Financial Reporting Standards (NZ IFRS).

Tax residence and double tax treaties

Companies, unit trusts and PIEs which are New Zealand tax resident under domestic law will generally be regarded as New Zealand residents under New Zealand's double tax treaties. The ability of non-resident REITs to invoke and apply New Zealand's double tax treaties in respect of any New Zealand-sourced income may depend on their legal structure, their tax status in their home jurisdictions and the wording of particular treaties.

3.2 Transition regulations

Conversion to PIE status
Deemed disposal and re-acquisition of certain Australasian share investments at market value immediately before PIE election is effective.

A PIE will be taxable at the general corporate/unit trust rate of 28% from the 2011-2012 income year; previously 30%) on taxable gains arising from the deemed disposal of certain Australasian share investments at market value immediately before its election to become a PIE is effective. The PIE may spread the resulting tax liability evenly over three years, and will not be liable for provisional tax penalties or tax interest charges in respect of that liability.

3.3 Registration duties

Registration duties
None.

No stamp duties, transfer taxes or other levies apply on the acquisition of land in New Zealand or where an entity elects to become a PIE.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- Distributions of companies and unit trusts taxed at normal income tax rate. - Distribution of a PIE: allocated PIE income taxed at normal income tax rate, with no tax on distributions from unlisted PIEs. - Distributions from listed company or unit trust PIEs may be taxable dividends to the extent imputation or foreign dividend payment credits are attached. - Disposals not taxable unless units held on revenue account. - Taxable disposals taxed at normal income tax rate.	- Distributions of companies and unit trusts taxed at normal income tax rate. - Distribution of a PIE: allocated PIE income taxed at 10.5%, 17.5% or 28% from October 01, 2010 (previously 12.5%, 21% or 30%) final levy with no tax on distributions unless NZ resident individual or trustee taxpayers elect to treat as taxable. - Disposals not taxable unless units held on revenue account. - Taxable disposals taxed at normal income tax rate.	Up to 33% on distributions, reduced by imputation credits attached.

Corporate unit holder

Distributions from companies and unit trusts are generally treated as dividends for New Zealand income tax purposes, with no distinction between distributions representing current income and distributions representing capital gains. On liquidation, certain distributions of realised and unrealised capital gains to resident corporate unit holders may be excluded from being dividends.

In certain circumstances, amounts distributed as returns of share or unit capital or on buy backs of shares or units may be excluded from treatment as dividends, and thus be free of New Zealand income tax.

Corporate investors in PIEs will be required to include their allocated PIE income in their own returns and account for tax themselves at the relevant rate applicable to their net taxable income from all sources. PIE distributions will not be taxed to New Zealand corporate investors except to the extent that the distributions are fully imputed or foreign dividend payment credited dividends from NZ-listed companies or unit trusts. Corporate PIE investors may offset taxable PIE income allocations or distributions against tax losses from other sources.

Disposals of units held in companies, unit trusts or PIEs by resident corporates are not taxable unless they constitute 'revenue account property'. Shares or units may be 'revenue account property' if the holder is a trader or dealer in such types of property, or if the holder has acquired the specific shares or units for the dominant purpose of disposal, or if acquisition and disposal of the shares or units is part of carrying on or carrying out a profit-making undertaking or scheme. Any gains which are taxable on this basis are taxed at the standard corporate rate (28% from the 2011-2012 income year; previously 30%).

Individual unit holder

Distributions from companies and unit trusts are generally treated as dividends for New Zealand income tax purposes, with no distinction between distributions representing current income and distributions representing capital gains. On liquidation, certain distributions of realised and unrealised capital gains to individual unit holders may be excluded from being dividends.

In certain circumstances, amounts distributed as returns of share or unit capital or on buy backs of shares or units may be excluded from treatment as dividends and thus be free of New Zealand income tax.

Distributions from listed PIEs to New Zealand resident individual or trustee holders are not taxable unless those holders choose to treat them as taxable dividends (for example, if the imputation or foreign dividend payment credits attached would exceed their personal income tax liability). Allocations of income by unlisted PIEs to New Zealand resident individual holders will not be taxed further where the PIE income has been allocated and taxed at the appropriate prescribed investor rate at the PIE level. Distributions from unlisted PIEs are not taxable.

As described above, disposals of units held in companies, unit trusts or PIEs by resident individuals are not taxable unless they constitute 'revenue account property'. Any gains which are taxable on this basis are taxed at individuals' normal income tax rates.

Withholding tax

Dividend distributions from New Zealand companies or unit trusts to resident investors are generally subject to 33% withholding tax, reduced to the extent imputation (franking) credits are attached. Such withholding tax (but not the imputation credits) may be refunded if the recipient's annual tax liability is less than the tax deducted on their behalf. No withholding tax applies to dividends from PIEs to resident investors.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
28% tax rate on distributions or taxable disposals from 2011-2012 income year (previously 30%) Disposals not taxable unless units held on revenue account.	28% tax rate on allocations from October 01, 2010 (previously 30%). Disposals not taxable unless units held on revenue account. Taxable disposals taxed at normal individual income tax rates.	In principle 30% withholding tax on distributions, reduced to 15% to the extent imputation (franking) or similar credits are attached. From February 01, 2010, reduced to 0% if fully imputed distributions paid to foreign unit holder who holds at least 10% voting interest or who holds lesser interest but tax treaty reduces New Zealand tax rate below 15%. Tax treaty relief may be available for distributions and disposals.

Corporate unit holder

Distributions from New Zealand companies and unit trusts to non-resident corporate investors are generally treated as dividends for New Zealand income tax purposes and subject to non-resident withholding tax, regardless of whether the distributions represent current income or capital gains. On liquidation, certain distributions of realised and unrealised capital gains to non-resident corporate holders may be excluded from being dividends unless they hold or can acquire or control at least 50%[8] of the company or unit trust.

In certain circumstances, amounts distributed as returns of share or unit capital or on buy backs of shares or units may be excluded from treatment as dividends and may thus be free of New Zealand income tax for all non-resident corporate holders.

Where an unlisted company or unit trust is eligible for and elects to be a PIE after October 01, 2007, as noted above, non-resident investors will have a 28% tax rate (from October 01, 2010; previously 30%) applied by such PIEs to their allocated income. Actual distributions by unlisted PIEs will not be taxed further. Distributions by New Zealand listed PIEs to non-resident corporate investors are intended to be treated as dividends, subject to withholding tax and potentially supplemented under the supplementary dividend tax credit (SDTC) regime[9],to the extent imputation or foreign dividend payment credits are attached. From February 01, 2010, the SDTC provisions do not apply if dividends are paid to non-residents with voting interests of at least 10% or if a tax treaty reduces the New Zealand tax rate below 15%. No further New Zealand income tax or withholding tax applies to any excesses over the dividend amounts which are distributed by New Zealand listed PIEs.

As described above, disposals of units held in New Zealand companies, unit trusts or PIEs by non-resident corporate holders are not taxable unless they constitute 'revenue account property'. Any New Zealand-sourced gains which are taxable on this basis are taxed at the standard corporate rate (28% from the 2011-2012 income year; previously 30%), unless an applicable double tax treaty provides relief from New Zealand income tax.

[8] From taxpayers' income years beginning on or after July 01, 2009; previously 20%.
[9] Previously called 'foreign investor tax credit' or FITC regime

Investments in companies or unit trusts holding real property interests may be treated as real property interests themselves under some of New Zealand's double tax treaties.

Income tax exemptions for overseas venture capital investors on the sale of units do not apply where the underlying New Zealand investments involve owning or developing real property.

Individual unit holder

Distributions from New Zealand companies and unit trusts to non-resident individual investors are generally treated as dividends for New Zealand income tax purposes and subject to non-resident withholding tax. No distinction is drawn between distributions representing current income and distributions representing capital gains. On liquidation, certain distributions of realised and unrealised capital gains to non-resident individuals may be excluded from being dividends, regardless of their level of ownership or control.

In certain circumstances, amounts distributed as returns of share or unit capital or on buy backs of shares or units may be excluded from treatment as dividends and may thus be free of New Zealand income tax for all non-resident individual holders.

Where an unlisted company or unit trust is eligible for and elects to be a PIE after October 01, 2007, as noted above, non-resident investors will have a 28% tax rate (from October 01, 2010; previously 30%) applied by such PIEs to their allocated income. Actual distributions by unlisted PIEs will not be taxed further. Distributions by New Zealand listed PIEs to non-resident individual investors are intended to be treated as dividends, subject to withholding tax and potentially supplemented under the SDTC regime, to the extent imputation or foreign dividend payment credits are attached. No further New Zealand income tax or withholding tax applies to any excesses over the dividend amounts which are distributed by New Zealand listed PIEs.

As described above, disposals of units held in New Zealand companies, unit trusts or PIEs by non-resident individuals are not taxable unless they constitute 'revenue account property'. Any New Zealand-sourced gains which are taxable on this basis are taxed at normal individual income tax rates, unless an applicable double tax treaty provides relief from New Zealand income tax.

Investments in companies or unit trusts holding real property interests may be treated as real property interests themselves under some of New Zealand's double tax treaties.

Withholding tax

'Non-resident withholding tax' (NRWT) is deductible from dividends (including distributions from unit trusts) at 30%, unless:

- Limited by an applicable double tax treaty, (typically to 15%); or
- Imputation (franking) or similar credits are attached to the dividend, in which case the NRWT rate is reduced to 15% to the extent the dividend is so credited.

NRWT may be at a zero rate if fully imputed (franked) non-cash dividends, such as certain bonus issues (if allowed by the terms of the trust deed), are made. From February 01, 2010 a 0% NRWT rate also applies to fully imputed cash dividends paid to non-residents who hold voting interests of at least 10% or who hold lesser interests but a tax treaty reduces the New Zealand tax rate below 15%. The cost of NRWT can be offset by credits arising under New Zealand's SDTC regime.

Non-resident investors need to consider their ability to claim foreign tax credits in their home jurisdiction for NRWT deducted, particularly where a New Zealand company or unit trust pays supplementary dividends to non-residents under the SDTC regime.

Where an unlisted company or unit trust is eligible for and elects to be a PIE after October 01, 2007, as noted above, non-resident investors will have a 28% tax rate (from October 01, 2010; previously 30%) applied by such PIEs to their allocated income and no withholding or other income tax will apply to distributions from such PIEs to non-residents. Any actual distributions to non-resident investors by listed PIEs are intended to be subject to NRWT only to the extent imputation (franking) or similar credits are attached.

5 Tax treatment of foreign REITs and their domestic unit holders

Foreign REITs	Corporate unit holder	Individual unit holder
- 28% Corporate tax (from 2011-2012 income year; previously 30%). - Treaty relief might apply.	- May be taxable under CFC or FIF regime.	- May be taxable under CFC or FIF regime.

Foreign REITs
Overseas Investment Office consent may be required for overseas investors in New Zealand land or other assets. Overseas companies carrying on business in New Zealand are required to register with the New Zealand Companies Office and must comply with annual return filing and financial statement and audit requirements.

Where units in a unit trust are offered to the public:
- The Unit Trusts Act 1960 regulates structural matters and requires (i) a management company to manage the investments and issue units and (ii) a trustee company (which is not controlled by the same persons who control the management company) to hold legal title to the assets;
- The Securities Act 1978 regulates the offering of units to the public, prospectus and related requirements;
- The Financial Reporting Act 1993 regulates accounting and audit requirements;
- The NZ Stock Exchange Listing requirements apply if units are to be traded on the stock exchange.

New Zealand sourced rentals or business income will be taxable under New Zealand domestic law at the basic corporate income tax rate of 28% (from the 2011-2012 income year; previously 30%), subject to any limitation by an applicable double tax treaty.

Subject to any double tax treaty limitations, New Zealand sourced dividends, interest or royalties paid to non-residents are generally subject to non-resident withholding tax at the basic rates of 30% for dividends (reduced to 15% to the extent imputed (franked), to 0% if the dividend is a fully imputed non-cash dividend or a fully imputed cash dividend paid from February 01, 2010 to non-residents with at least 10% voting interest or to those with lesser interests if a tax treaty reduces their New Zealand tax rate below 15%), 15% for interest (a minimum tax unless the parties are not associated) and royalties (a minimum tax).

Corporate unit holder
Depending on the extent of New Zealand ownership of a non-resident REIT which is a company or unit trust, New Zealand corporate holders may be taxable on attributed income under New Zealand's 'controlled foreign company' (CFC) or 'foreign investment fund' (FIF) regimes.

Previously, a New Zealand resident corporate unit holder would generally be exempt from New Zealand income tax on any distribution received from a non-resident company or unit trust but it would have to pay a 'foreign dividend payment' (FDP[10]) amount to Inland Revenue, effectively on account of its own unit holders' future income tax liabilities. The FDP amount could be reduced by any foreign withholding tax deducted on the distribution and, in some circumstances, by an allowance for an underlying foreign tax credit. If the New Zealand corporate holder had non-resident unit holders, the FDP liability could also be reduced under the conduit tax relief regime. Credits arising from tax paid on any attributed income under the CFC or FIF regimes could also be offset against the FDP liability. The rules have been changed for companies' income years beginning on or after July 01, 2009 (for example, the year ending December 31, 2010 for companies with December 31 balance dates, or the year ending March 31, 2011 for companies with March 31 balance dates).

Under the new rules, New Zealand resident corporate unit holders are generally exempt from New Zealand income tax on distributions received from non-resident companies or unit trusts if they hold at least 10% income inter-

[10] Previously called 'foreign dividend withholding payment' or 'FDWP'

ests and the distributions do not relate to fixed-rate foreign equity and are not deductible (directly or indirectly) outside New Zealand. Fixed-rate foreign equity and deductible foreign distributions are taxable on receipt or crediting. If the income interests held by a New Zealand resident corporate are less than 10%, distributions will be taxable on receipt or crediting if the interests fall within certain FIF regime exemptions. The FDP rules are repealed and conduit tax relief can no longer be claimed against a company's income tax although the benefit of existing credits can still be passed on to shareholders by being attached to dividends paid over a transitional period.

Individual unit holder

If the non-resident REIT falls within New Zealand's definition of a company or unit trust for tax purposes, individual New Zealand resident holders would generally be taxable on any distributions at their marginal personal tax rates, regardless of the source of the REIT's income.

Depending on the extent of New Zealand ownership of the non-resident REIT, individual New Zealand holders may be taxable on attributed income under NZ's CFC or FIF regimes. Where the individual is taxable in respect of the investment under the FIF regime, the treatment of distributions and any foreign withholding tax will depend on the particular method applied to calculate the FIF income. ■

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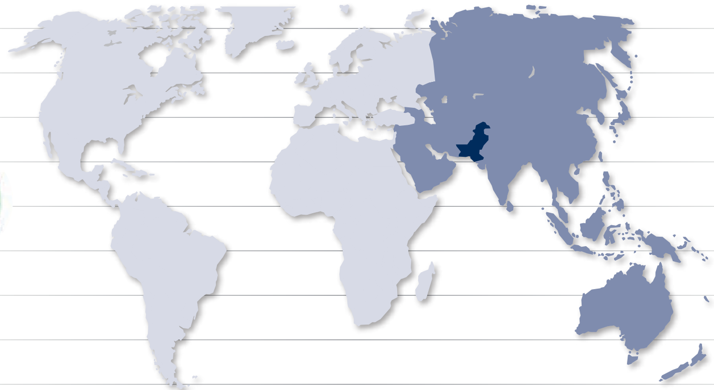
Pakistan

(REIT)



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- Tax treatment of foreign REITs and its domestic unit holder

For any questions or feedback related to this survey, please contact:

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1 General introduction

	Enacted year	Citation	REIT type	REIT market
Pakistan REITs	January 31, 2008	Pakistan -Companies -Ordinance, 1984	Trust type	To be established

The Securities and Exchange Commission of Pakistan (SECP) enacted the Real Estate Investment Trust Regulations 2008 (the Regulations) vide S.R.O. 94(I)/2008 dated January 31, 2008 for the regulation of REIT management companies, and the registration and regulation of REIT schemes and connected matters. The Regulations were made within the framework of the Non-Banking Finance (NBF) business, which is an activity regulated directly by SECP under Part VIII A of the Companies Ordinance, 1984 for the promotion of real estate sector.

REITs in Pakistan are close-ended trusts with tax treatment similar to that of mutual funds in Pakistan in terms of tax exemptions.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Licence application to the Security & Exchange Commission of Pakistan. - Appointment of a trustee & property valuer in accordance with the Regulations.

Firstly, the promoters of a REIT management company will need to submit an application together with the prescribed application fee to seek prior permission from SECP to incorporate a REIT management company under the provisions of the Companies Ordinance, 1984.

The promoters will then be required to submit a copy of the permission letter issued by the SECP together with the prescribed incorporation documents and information to the Registrar of Companies to incorporate the REIT management company. The Registrar of Companies will issue a certificate of incorporation to the REIT management company as conclusive proof of the incorporation of the REIT management company in Pakistan.

Consequently, upon incorporation, the REIT management company would need to apply for a licence from SECP in accordance with the Regulations to undertake its business. At the time of submitting the application to the SECP to obtain its licence, the minimum paid-up capital of the REIT management company should be at least Rs 50 million. The SECP may grant a licence to the company as a Non-Banking Finance Company (NBFC) to launch close-ended REIT schemes and provide REIT management services which may include development REIT schemes and rental REIT schemes.

Subject to prior approval of the SECP, the REIT management company will appoint its directors or chief executive.

The trustee of the REIT scheme should not be a connected person, associated company or associated undertaking of the REIT management company. All REIT assets are to be held by the trustee on behalf of the unit holders. All real estate and other assets of the REIT scheme should be acquired in the name of the trustee. A trustee and property valuer must be appointed with the prior approval of SECP for every REIT scheme.

A trustee of a REIT scheme may be a scheduled bank, development financial institution having a long-term rating of ‘AA’ by a credit rating agency, a subsidiary of a scheduled bank, a foreign bank, central depository company or any other person as the SECP may notify from time-to-time.

Trust Deeds should be in accordance with Schedule II of the Regulations, and provide for the time and modality of the extinguishment of the REIT scheme and the manner in which proportionate shares of the sale proceeds shall be transferred to its unit holders.

The promoters of a REIT management company must have at least 25% of the paid-up share capital, and should not withdraw their investment without prior approval of SECP and must be kept unencumbered.

Promoter refers to a person (as defined by the NBFC's Rules) who has made an application to the SECP to form a REIT management company under the proposed Rule-4.

The licence issued by the SECP shall be valid for one year from the date of issuance to the REIT management company, and shall be renewable upon expiry of the said period.

2.2 Legal form / minimum share capital

Legal form	Minimum initial capital
- Management company: Public Limited Company	Rs. 50 million as prescribed by the SECP at the time of applying for the licence. The paid-up capital should be further increased to at least Rs. 500 million within 30 working days of the registration of the REIT scheme.

Legal form
The REITs should be established as close-ended trusts.

A REIT management company should be incorporated as a public limited company under the Companies Ordinance, 1984 with at least three directors. At least one third of its directors must be independent directors. At least two directors must be from its promoters and one director must have at least five years experience in developing or managing real estate projects.

The REIT must commence its business within one year from the date of issuance of the licence.

The REIT management company must maintain adequate financial, technical, procedural, organisational, human resources, internal controls, compliance procedures and prepare accounts in conformity with the International Accounting Standards (IAS).

The REIT management company shall make a public offering of at least 25% of units of the REITs scheme.

The par value of the units to be offered shall be Rs. 10.

Management fee
The REIT management company will be entitled to receive an annual management fee not exceeding 1% of the initial REIT fund for the life of the REIT scheme. In the case of a Rental REIT scheme, the REIT management company shall be entitled to an annual management fee not exceeding 3% of the annual operating income of the REIT scheme. Annual operating income means annual revenue minus operating cost.

Annual monitoring fee
For Development REIT schemes, the annual monitoring fee should be 0.20% of the initial REIT fund paid annually to the SECP for the life of the REIT scheme.

For Rental REIT schemes the annual monitoring fee should be 0.10% of the initial REIT fund, paid annually to the SECP for the life of the REIT scheme.

Trustee fee
For Developmental REIT schemes, trustee fees should be an annual fee not exceeding 0.20% of the initial REIT fund.

For Rental REIT schemes, trustee fees should be an annual fee not exceeding one-fifth of the fee charged by the REIT management company.

Fee to quality assurance manager or property manager.
Fee as negotiated by the REIT management company.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
None	Yes

The maximum number of units that may be subscribed by investors through the initial public offering shall not exceed 5% of the REIT fund.

Listing requirements

The REIT Management company must apply to list units of the REIT fund on the stock exchange(s). The units of the REIT fund should be listed in accordance with the listing regulations of the relevant stock exchange(s) and should be freely tradable.

2.4 Asset level / activity test

Restrictions on activities / investments
- Investments should only be made in real estate. - Restriction on transferring ownership of controlling shares, merger and take-over. - Restriction on obtaining management of another REIT scheme. - Investment in vacant land for development purposes is allowed. - Restriction on investing in unlisted securities and commodities.

Restriction on activities

A REIT Management Company - which manages the assets of a trust - shall only invest in real estate, real estate related assets and non-real estate assets in ratios prescribed by the SECP.

A REIT Management Company is not allowed to acquire management of another REIT scheme without prior approval from SECP. Similarly, it is not allowed to transfer ownership of controlling shares, merge with, acquire or take-over any other company unless received prior approval from the SECP.

The REIT scheme shall not invest in such assets which are specified by the SECP via its notification in the official gazette.

The REIT Funds or REIT Assets shall not be used directly or indirectly for:

- Lending or making an advance not connected to objects or furtherance of the REIT Scheme.
- Acquiring any asset that involves the assumption of any liability that is unlimited.
- Affecting a short sale in any security.
- Purchasing any asset in a forward contract.
- Purchasing any asset on margin.
- Participating in a joint account with others in any transaction.
- Trading in commodities or becoming involved in commodity contracts.
- Acquiring any security of which another REIT Fund.

2.5 Leverage

Leverage
In case of Development REIT scheme, the aggregate of: (i) borrowings from financial institutions and capital markets; and (ii) Customers Advances Shall not, at any time, exceed 60% of REIT Fund. In case of Rental REIT scheme, an RMC may borrow from financial institutions and capital markets provided that the aggregate borrowing shall not, at any time, exceed 30% of REIT Fund. 'REIT Fund' means the fund raised through the issuance of units.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of the annual income.	90% of the annual income.	Annually

A REIT Management Company shall distribute not less than 90% of the profits arising out of the REIT Scheme to the unit holders as dividend in each financial year.

Dividend shall be paid in cash, or through the issuance of bonus units if allowed by the Commission, on a reasonable request made by the REIT -Management Company.

2.7 Sanctions

Upon observing that the REIT Management Company is not pursuing its business according to the laws, rules and guidelines of SECP, the SECP may:

Penalties / loss of status rules
- Cancel or suspend the registration of the REIT scheme. - Remove the trustee in the circumstances as stipulated in the Regulation. - Remove the valuer in the circumstances as stipulated in the Regulation. - Impose a fine.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Tax-exempt, if 90% of net income distributed.	Capital gains on immovable property are tax-exempt.	- No tax withholding on receipt of dividend income, profit on debt (interest) or commission. - Other withholding tax due can be avoided by the exemption certificate.

Current income

Income of a duly registered REIT company is exempt from tax subject to distribution of a minimum of 90% of its accounting income of that year, reduced by capital gains whether realised or unrealised, among the unit holders.

Taxable at corporate tax rate if profit distribution of at least 90% as stated above is not made.

Capital gains

Generally, capital gains on moveable assets held for 12 months or less are taxable at full corporate tax rate. Capital gains on sale of moveable assets held for more that 12 months is exempt from tax up to 25% of the total gain. The remaining 75% gain is taxable at corporate tax rate. The effective tax rate works out to be 26.25% in this case.

As a general rule in Pakistan, capital gains on the sale of immovable property are not liable to income tax. Stamp duty is charged based on a schedule of charges, at the time of the transfer of the property. However, if the immovable property is purchased and sold for business purpose, the gains would be liable to corporate income tax.

Withholding tax

No withholding is required to be made on payments to the registered REIT companies on account of any dividend, profit on debt (interest) or commission. Other withholding obligations would be applicable on payments received by registered REIT companies. However, based on the general exemption from tax (subject to 90% distribution of profits) an exemption certificate from withholding of tax can be obtained from the tax authorities by the registered REIT company. A refund is possible.

Accounting Rules

No accounting rules prescribed.

3.2 Transition regulations

Conversion into REIT status
N/A

No rules prescribed.

3.3 Registration duties

Registration duties
Stamp duty.

There is a state stamp duty on transfer of real estate. However, this can vary state to state.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- 10% withholding tax on dividend - final levy. - Withholding tax on capital gains either at 10% or 8% and 8.5% on redemption of units.	- 10% withholding tax on dividend - final levy. - Withholding tax on capital gains either at 10% or 8% and 8.5% on redemption of units.	No credit possible.

Corporate unit holder
Subject to tax on dividend received at 10%.
Tax withholding on Capital gain shall be made at 10 percent for the tax years 2011 and 2012 if holding period is less than 6 months; at 7.5% and 8% for the tax years 2011 and 2012 respectively if the holding period is more than 6 moths but less than 1 year. However, there would not be any withholding if the holding period exceeds 1 year.

Individual unit holder
Subject to tax on dividend received at 10%.
Tax withholding on Capital gain shall be made at 10 percent for the tax years 2011 and 2012 if holding period is less than 6 months; at 7.5% and 8% for the tax years 2011 and 2012 respectively if the holding period is more than 6 moths but less than 1 year. However, there would not be any withholding if the holding period exceeds 1 year.

Withholding tax
The registered REIT company would be required to withhold tax at the rate of tax applicable to the unit holder. The tax so withheld would be considered to be the full and final discharge of the tax liability of the unit holder in respect of the dividend income received from the registered REIT company and also in respect of capital gain on redemption of units.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- 10% withholding tax on dividend - final levy. - Withholding tax on capital gains either at 10% or 8% and 8.5% on redemption of units.	- 10% withholding tax on dividend - final levy. - Withholding tax on capital gains either at 10% or 8% and 8.5% on redemption of units.	No tax treaty relief available.

Corporate unit holder
Subject to tax on dividend received at 10%.
Tax withholding on Capital gain shall be made at 10 percent for the tax years 2011 and 2012 if holding period is less than 6 months; at 7.5% and 8% for the tax years 2011 and 2012 respectively if the holding period is more than 6 moths but less than 1 year. However, there would not be any withholding if the holding period exceeds 1 year.

Individual unit holder
Subject to tax on dividend received at 10%.
Tax withholding on Capital gain shall be made at 10 percent for the tax years 2011 and 2012 if holding period is less than 6 months; at 7.5% and 8% for the tax years 2011 and 2012 respectively if the holding period is more than 6

moths but less than 1 year. However, there would not be any withholding if the holding period exceeds 1 year.

Withholding tax

The registered REIT company would be required to withhold tax at the rate of tax applicable to the unit holder. The tax so withheld would be considered the full and final discharge of the tax liability of the unit holder in respect of the dividend income from the registered REIT company and also on capital gain on redemption of units.

Tax treaty relief is not possible as the tax rate is already quite low.

5 Tax treatment of foreign REITs and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
35% tax on Pakistan source income.	- 10% withholding tax on dividend - final levy. - Withholding tax on capital gains either at 10% or 8% and 8.5% on redemption of units.	- 10% withholding tax on dividend - final levy. - Withholding tax on capital gains either at 10% or 8% and 8.5% on redemption of units.

Foreign REIT

Foreign REITs would not be liable to the tax benefits prescribed in the tax law as they are restricted to REIT companies registered in Pakistan.

A foreign REIT would be taxed on its Pakistan source income at a tax rate of 35%.

Corporate unit holder

Subject to tax on dividend received at 10%.
Tax withholding on Capital gain shall be made at 10 percent for the tax years 2011 and 2012 if holding period is less than 6 months; at 7.5% and 8% for the tax years 2011 and 2012 respectively if the holding period is more than 6 moths but less than 1 year. However, there would not be any withholding if the holding period exceeds 1 year.

Individual unit holder

Subject to tax on dividend received at 10%.
Tax withholding on Capital gain shall be made at 10 percent for the tax years 2011 and 2012 if holding period is less than 6 months; at 7.5% and 8% for the tax years 2011 and 2012 respectively if the holding period is more than 6 moths but less than 1 year. However, there would not be any withholding if the holding period exceeds 1 year. ■

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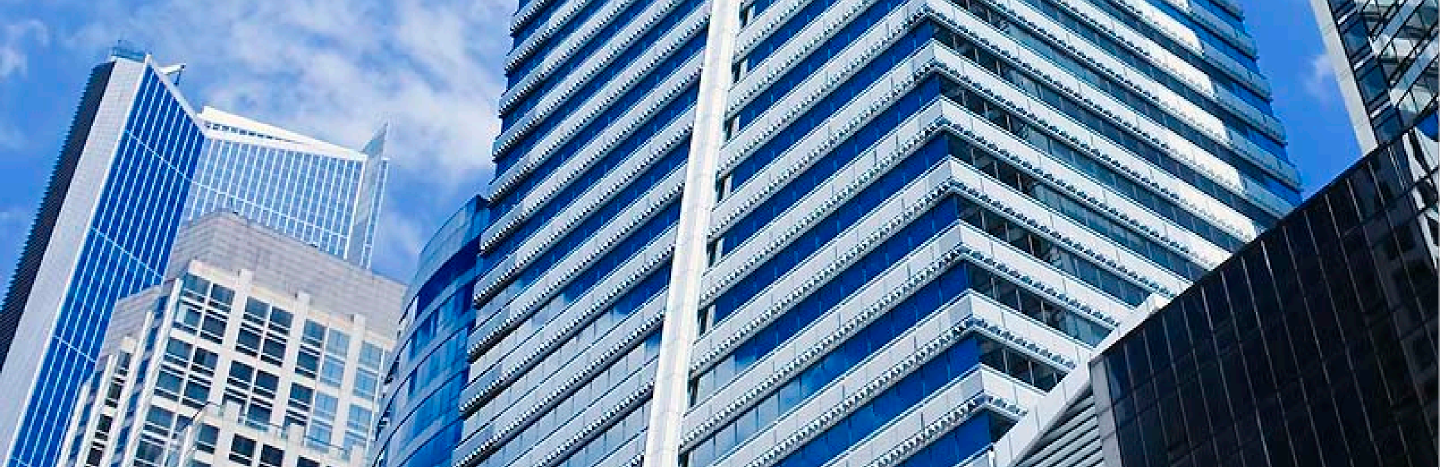

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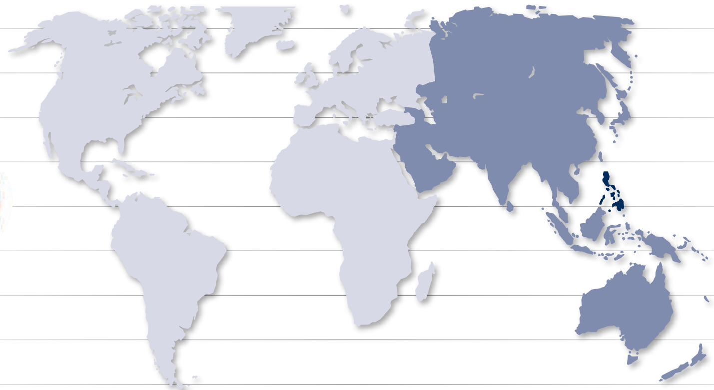

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1 General introduction

Enacted year	Citation	REIT type	REIT market
2009	Republic Act 9856.	Corporate type.	No REITs established as of April 2011.

The Real Estate Investment Trust (REIT) Act of 2009, otherwise known as Republic Act 9856, was enacted on December 17, 2009 without the signature of the President of the Philippines, in accordance with Article VI, Section 27(1) of the Philippine Constitution. The REIT Act is a synthesis of Senate Bill No. 2639 and House Bill No. 6379 which were approved by the Senate and the House of Representatives on September 29, 2009 and September 30, 2009, respectively.

The REIT Act became effective on February 09, 2010. On April 19, 2010, the Securities and Exchange Commission (SEC) released a draft of the Implementing Rules and Regulations (IRR) in relation to the REIT Act.

2 Requirements

2.1 Formalities / procedure

Key requirements
Registration with the Securities and Exchange Commission (SEC).

The shares of the REIT must be registered with the Securities and Exchange Commission (SEC) and listed in accordance with the rules of the Stock Exchange.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Stock Corporation	PHP 300 million

A REIT shall be set up as a stock corporation, i.e. as a Real Estate Investment Company (REIC). The stock corporation should be established in accordance with the Corporation Code of the Philippines and the rules and regulations promulgated by the Securities and Exchange Commission of the Philippines, or organised under the laws of a foreign country, principally for the purpose of owning income-generating real estate assets and real estate securities.

The majority of the members of the board of directors must be residents of the Philippines. At least two directors (or 33.3% of the total number of directors in the case that the REIT has more than six directors) on the board of directors of a REIT shall be independent directors.

A REIT established under Philippine laws is deemed to be tax resident in the Philippines and will be able to benefit from any Double Taxation Treaties that the Philippines may have in place.

A REIT formed under the laws of a foreign country will likewise be deemed a Filipino tax resident if it is engaged in trade or business within the Philippines. Under Philippine laws "doing business" includes, among others: participation in the management, supervision or control of any domestic business, firm, entity or corporation in the Philippines; any other act or acts that imply a continuity of commercial dealings or arrangements, and contemplate to that extent the performance of acts or works, or the exercise of some of the functions normally incident to and in progressive prosecution of commercial gain or of the purpose and object of the business organisation. If the above criteria are met then the foreign REIT will be able to benefit from Double Taxation Treaties that the Philippines may have in place.

A REIT must have a minimum paid-up capital of PHP 300 million. In order to prevent companies from using REITS merely to convert ownership in existing infrastructure to liquid assets, there is an existing proposal to restrict payment of existing debts being made out of paid up capital (i.e. these debts must be paid out of income generated by the business), thereby preventing companies from deleveraging by using REITs to pay off existing debts.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
- At least 1,000 shareholders with at least 50 shares each (who in aggregate own at least 33.3% of share capital).	Yes

A REIT must be listed in accordance with the rules and regulations of a Stock Exchange and must be regulated as a public company. To qualify as a public company, the REIT must, upon and after listing have at least 1,000 shareholders, each owning at least 50 shares of a class of shares, who in the aggregate own at least 33.3% of the share capital of the REIT. As of April 2011, proposed revisions to the REIT Act include increasing the minimum public ownership level to 40% of the share capital of the REIT in the REITs first year of existence, further increasing to 67% within three years. It is expected that these rules will come into force before the end of 2011.

Compliance with the minimum public ownership requirement must be duly certified by the Public Registrar upon listing, on the date of any dividend declaration, on the date of any corporate action requiring shareholder approval and other relevant times as may be required by the SEC.

In order for a REIT to be allowed to own land located in the Philippines, it must comply with foreign ownership limitations imposed under Philippine laws, that is: such ownership is restricted to persons or entities considered as Filipino citizens (individuals) or Philippine nationals (which stretches to include Filipino citizens, domestic partnerships or associations wholly owned by Filipino citizens and corporations organised under the laws of the Philippines of which at least 60% of the share capital is owned by Filipino citizens). For land ownership purposes, a corporation shall be deemed as a Philippine national if 60% of its share capital and vote entitlement are owned by Filipino citizens.

2.4 Asset level / activity test

Restrictions on activities / investments
- In the case of investment in income-generating real estate outside the Philippines, the investment does not exceed 40% of the deposited property. - At least 75% income producing real property in the Philippines required. - Must not undertake property development. - May hold real estate through unlisted special purpose vehicle (SPV).

A REIT may only invest in:

a. Real estate, whether freehold or leasehold, in or outside the Philippines. A REIT can invest in income-generating real estate outside the Philippines to the extent that this investment does not exceed 40% of the REIT's Deposited Property and that special permission is obtained from the SEC. An investment in real estate may be by way of direct ownership or a shareholding in an unlisted special purpose vehicle (SPV) incorporated to hold or own real estate.
b. Real estate related assets, wherever the issuers, assets, or securities are incorporated, located, issued, or traded.
c. Managed funds, debt securities, and shares issued by listed local or foreign non-property corporations.
d. Government securities issued on behalf of the Philippine Government, governments of other countries, and securities issued by supra-national agencies.
e. Cash and cash-equivalents.
f. Such other similar investment outlets as the SEC may allow.

Republic Act 9856 likewise provides that:

a. At least 75% of the Deposited Property of the REIT must be invested in, or consist of, income-generating real estate.
b. A REIT must not undertake property development activities whether on its own, in a joint venture with others, or by investing in unlisted property development companies, unless it intends to hold the developed property upon completion. The total contract value of property development activities undertaken and investments in uncompleted property developments should not exceed 10% of the Deposited Property.

c. Not more than 15% of investable funds of the REIT may be invested in any one issuer's securities or any one managed fund, except with respect to government securities where the limit is 25%.
d. A REIT may invest not more than 5% of its investable funds in certain financial products, such as, but not limited to, credit default swaps, credit-linked notes, collateralised debt obligations, total return swaps, credit spread options, and credit default options, and only upon special authority from the SEC.
e. A REIT may invest in local or foreign assets, subject to the terms of its articles of incorporation. Where an investment in foreign real estate assets is made, the REIT should ensure compliance with the applicable laws and requirements in that foreign country.
f. When investing as a joint owner, the REIT should make such an investment by acquiring shares or interests in an unlisted SPV set up to hold/own real estate and the REIT should have freedom to dispose of its interest in such an investment.

2.5 Leverage

Leverage
Shall not exceed 35% of market value of Deposited Property.

The total borrowings and deferred payments of a REIT shall not exceed 35% of the market value of its Deposited Property. Provided, however, that the REIT has publicly disclosed its investment grade credit rating by a duly accredited or internationally recognised rating agency, its total borrowings and deferred tax payments may exceed 35%, but not more than 70% of the market value of its Deposited Property. Note that it is necessary to undergo a full valuation of the REIT's assets using an SEC-accredited independent appraisal company at least once a year.

There is currently no distinction between domestic and cross-border situations for leverage purposes.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of its Distributable Income.	Capital gains from the sale of stock of domestic corporations are not included in Distributable Income since they have already been subjected to final tax. Other types of capital gains are included in Distributable Income if they have been realised and have not been reinvested by the REIT within one year from the date of sale.	Annually

Operative income
A REIT must distribute annually as dividends at least 90% of its Distributable Income to its shareholders not later than the last day of the fifth month following the close of the fiscal year of the REIT.

'Distributable Income' is defined as "Net Income as adjusted for unrealised gains and losses/expenses, impairment losses and other items in accordance with internationally accepted accounting standards". Distributable income excludes proceeds from the sale of the REIT's assets that are re-invested by the REIT within one year of the date of the sale.

Capital gains
To the extent that the gains are realised, they are included in Distributable Income as determined by the SEC. This is not the case if the gain on the sale of REIT assets is re-invested by the REIT within one year of the date of sale.

Unrealised gains are not included in the Distributable Income. Also capital gains realised from the disposal of shares in domestic corporations are not included in Distributable Income since they have already been subjected to final tax (see section 3.1).

There is currently no distinction between domestic and cross-border profit distribution requirements.

2.7 Sanctions

Penalties / loss of status rules
- Revocation of tax incentives. - Liability for surcharges and penalties under the Tax Code.

Delisting of REITs:

a. If the REIT is delisted from the local exchange, whether voluntarily or involuntarily, for failure to comply with the provisions of the REIT Act or rules of the Stock Exchange its tax incentives shall be *ipso facto* revoked and withdrawn as of the date the delisting becomes final and executory;
b. Any tax incentives that may have been availed of by the REIT after the delisting shall immediately be refunded to the Government, together with a fine of between PHP 200,000 and PHP 5 million, and;
c. If the delisting is highly prejudicial to the interest of the investing public, the REIT and/or responsible persons shall refund to its investors at the time of delisting the value of their shares.

Revocation of registration of REITs:

a. If the SEC discovers that the REIT was established so as to seek the benefits of the REIT Act without a true intention to carry out its provisions and/or adhere to the rules of the REIT Act, the SEC shall revoke or cancel the registration of the shares of the REIT;
b. The REIT shall pay the applicable taxes to a non-REIT retrospectively, plus interests and surcharges prescribed under the Tax Code.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Only non-distributed current income subject to taxation.	Transfer of shares in a domestic corporation subject to special rates of capital gains tax. Other types of capital gains are included in gross income.	Foreign withholding tax deductible or creditable. Local withholding tax creditable.

Current income

The Taxable Net Income of a REIT refers to the pertinent items of 'Gross Income' as defined in the Tax Code minus the following deductions: (a) those deductions enumerated in the Tax Code; and (b) the dividends distributed by a REIT out of its Distributable Income as of the end of the taxable year.

The Taxable Net Income is subject to regular corporate income tax (RCIT), at the rate of 30% beginning January 01, 2009. A REIT shall not be subject to the minimum corporate income tax (MCIT).

Capital gains

Only retained capital gains which have been realised and which have not been subjected to final tax (see below) are included in the Gross Income of a REIT, which after the allowable deductions (see above) are subject to the RCIT.

A REIT shall be subject to capital gains tax (CGT) at the rate of 5% for the first PHP 100,000, and 10% for net capital gains in excess of PHP 100,000, realised from the disposal (by the REIT) of shares of a domestic corporation, if such domestic corporation is not listed on the local stock exchange, or even if listed, if the transfer takes place through trades outside the local stock exchange.

Withholding tax

Any foreign withholding tax may be utilised as either a deduction from gross income or a tax credit (subject to the applicable limitations).Local income payments to a REIT shall be subject to a lower creditable withholding tax of 1%.

Other taxes

1. The gross sale of properties and services (e.g. rental receipts) of a REIT will be subject to value added tax (VAT) at the rate of 12% ('Output VAT'), the amount of which is passed on to the buyers/lessees of the REIT. The REIT can claim, as credit against its Output VAT, the amount of the VAT passed on to it by its local suppliers of goods and services ('Input VAT'). The REIT's VAT Payable is the excess of its Output VAT over its Input VAT. A REIT shall not be considered as a dealer in securities and shall not be subject to VAT on its sale, exchange or transfer of securities as part of its real estate-related business.
2. A REIT will be subject to the stock transaction tax (STT) on its transfers of shares of stock listed and traded at the local stock exchange, at the rate of 0.5% of the gross selling price or the gross value in money of the shares of stock. If the REIT transfers the listed shares outside the stock exchange, then it will be subject to capital gains tax at the rate of 5% for the first PHP 100,000 of net capital gains and 10% for net capital gains in excess of PHP 100,000.
3. The sale or transfer of any property to REITs, which includes the sale or transfer of security over the asset, shall be subject to 50% of the applicable documentary stamp tax (DST) imposed under the Tax Code.
4. Any sale, barter, exchange or other disposition of listed shares in the REIT by its investors does not give rise to a DST at the level of the REIT.
5. A REIT will be subject to local business tax at the rates provided in the Revenue Code of the province/city/municipality where the principal office of the REIT is located.
6. A REIT will be subject to local transfer tax on its transfers or real property, at the rate provided in the Revenue Code of the province/city/municipality where the real property is located.

Accounting rules

The Philippines has adopted International Financial Reporting Standards.

3.2 Transition regulations

Conversion into REIT status
'Conversion' may be through a transfer of existing REIT-eligible assets to a REIT.

Any gain realised from the transfer of properties to a REIT are not exempted from capital gains tax or regular income tax although the transferor may opt to structure the sale as a tax-deferred exchange pursuant to the provisions of the Tax Code. A REIT must be a newly incorporated entity. An existing property company is not allowed to merely amend its Articles of Incorporation in order to achieve REIT status.

3.3 Registration duties

Registration duties
Registration fees, VAT, DST, local withholding tax, and local transfer taxes.

The transfer of properties to a REIT, unless structured as a tax-deferred exchange under such conditions specified in the Tax Code, will give rise to liability for VAT and local transfer taxes. The registration of the deed of sale with the Register of Deeds requires the payment of registration fees. As discussed above, the transfer of properties to a REIT will be subject to 50% of the applicable DST imposed under the the Tax Code. Local income payments to a REIT shall be subject to a lower creditable withholding tax of 1%.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
Distributions tax-exempt.	- Final 10% withholding tax on dividends received.	- Final withholding tax for individual shareholders.

Corporate shareholder
Dividends paid by a REIT to a domestic corporation or a resident foreign corporation are tax-exempt.

Since the REIT's shares are listed on the local stock exchange, the disposal of the REIT shares by a corporate shareholder (i.e. a domestic corporation or a resident foreign corporation) shall be subject to the following taxes:

a. Stock transaction tax of 0.5% of the gross selling price or the gross value in money of the shares of stock transferred, if the REIT shares are transferred through trades on the stock exchange; or
b. Capital gains tax of 5% (on the first PHP 100,000 of net capital gains) or 10% (on net capital gains exceeding PHP 100,000), if the REIT shares are transferred outside the stock exchange.

Individual shareholder
The 10% tax on dividends received by a Filipino citizen or a foreigner resident in the Philippines from a REIT is a final tax, withheld and remitted to the Bureau of Internal Revenue (BIR) by the REIT.

The tax treatment of the transfer of the REIT shares by a Filipino citizen or a foreigner resident in the Philippines are the same as for Corporate shareholders (as set out above).

Dividends received by overseas Filipino investors form a Philippine REIT are exempt from Philippine income tax for seven years from the date that the tax-specific IRR are passed. (They are currently still in draft).

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
10%	10%	Tax treaty relief available.

Corporate shareholder
Unless a foreign corporation is entitled to claim a preferential withholding tax rate of less than 10% pursuant to an applicable tax treaty, a 10% final withholding tax on dividends to foreign corporate shareholders shall be levied. The default rate under the Tax Code is 35%, reduced to 15% under a tax sparing provision of the Tax Code, and to 10% under certain tax treaties. It should be noted that there are currently no tax treaties with the Philippines in force that reduce withholding tax to below 10%.

The tax treatment of the disposal of the REIT shares by a foreign corporate shareholder is the same as for a corporate shareholder as per Section 4.1 above.

Individual shareholders
A 10% final withholding tax shall be levied on dividends paid by REITs to foreign individual shareholders. The default rate under the Tax Code is 20% for non-residents engaged in trade or business in the Philippines, and 25% for non-residents not engaged in trade or business in the Philippines. Most tax treaties reduce these rates to 10% or 15%.

The tax treatment of the disposal of the REIT shares by a foreign individual shareholder is the same as for a corporate shareholder as per Section 4.1 above.

Withholding tax
Tax treaty relief is available, although in practice this is unlikely to apply as the rates under domestic legislation are lower than treaty rates.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Subject to taxation, unless there are applicable preferential rates or exemptions under tax treaties.	Subject to taxation.	Subject to taxation.

Foreign REIT
If the Philippine source income of a foreign REIT is not derived from a Philippine REIT, then it will be subject to Philippine tax in the same manner as any non-resident, subject to preferential treaty rates or exemptions applicable to foreign trusts or corporations, depending on how the foreign REIT is organised.

Corporate shareholder
Dividends received by a local corporation from a Foreign REIT are included in its Gross Income which after allowable deductions, is subject to the RCIT.

Individual shareholder
Dividends received by a local individual (Filipino resident citizen or foreigner resident in the Philippines) from a Foreign REIT are included in Gross Income which after allowable deductions, is subject to regular income tax at the rate applicable to such individual. ■

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(S-REIT)

Global REIT Survey 2011

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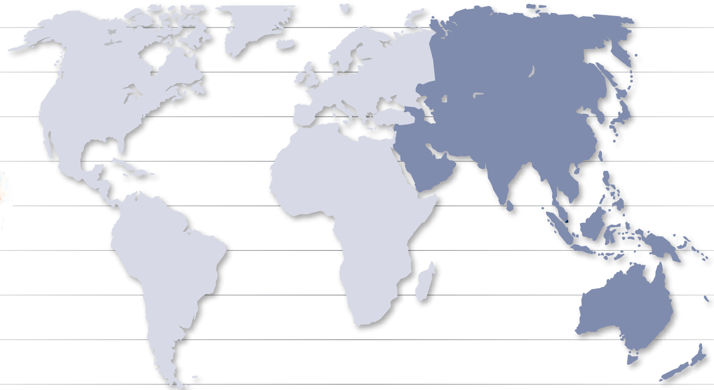

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EPRA REPORTING
European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type
S-REIT	1999	- Securities and Futures Act - Code on Collective Investment Schemes - Property Fund Guidelines - Income Tax Act	Trust

The REIT regime in Singapore is principally regulated by the Securities and Futures Act (Cap. 289), the Code on Collective Investment Schemes (the "Code") issued by the Monetary Authority of Singapore (MAS), the Property Fund Guidelines appended to the Code and the Income Tax Act.

The Property Fund Guidelines apply to a collective investment scheme that invests or proposes to invest primarily in real estate and real estate-related assets. The scheme may or may not be listed on the Singapore Exchange.

The first set of regulatory guidelines for property funds was issued by the Monetary Authority of Singapore in May 1999.

The first Singapore REIT was listed on the Singapore Exchange in July 2002. As of April 2011, there are 22 REITs and three Business Trusts listed on the Singapore Exchange with a market capitalisation of approximately EUR 21 billion.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Singapore	24	11,3	22,5	3,9%

Top 5 S-REITs

Company Name	Market cap (€m)	Sector type
CapitaMall Trust	3.470	Hotel, Industrial, Office, Retail
Ascendas Real Estate Investment Trust	2.455	Industrial, Logistic, Office, Retail
CapitaCommercial Trust	2.304	Commercial, Education, Health-care, Hotel, Office, Parking, Retail
Suntec Real Estate Investment Trust	1.968	Office, Parking, Retail
Mapletree Logistics Trust	1.290	Industrial,Logistic

2 Requirements

2.1 Formalities / procedure

Key requirements
- Formal advance ruling and/or tax exemption application has to be submitted. - Listing on the Singapore Exchange is necessary to qualify for tax exemption.

A REIT that is listed on the Singapore Exchange (S-REIT) is eligible for favourable tax treatment. To be listed on the Singapore Exchange, a REIT must comply with the applicable rules, regulations and guidelines set out in Securities and Futures Act (Cap. 289), the Code (including the Property Fund Guidelines) and the Singapore Exchange Listing Manual.

Some of the favourable tax treatments are granted on application. In other words, a formal advance ruling and/or tax exemption application has to be submitted to the Singapore tax authorities and/or the Singapore Ministry of Finance.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Trust	SGD 20 million (SGD-denominated REITs) / USD 20 million (non-SGD denominated REITs)

Legal form
An S-REIT must be constituted as a trust.

An S-REIT may be managed externally or internally, but in practice all are externally managed.

Minimum initial capital
For listing on the Singapore Exchange, a REIT, if it is denominated in Singapore Dollars (SGD), must have a minimum asset size of at least SGD 20 million. If the REIT is denominated in a foreign currency, it must have a minimum asset size of USD 20 million (or its equivalent in other currencies).

2.3 Unit holders requirements / listing requirements

Unit holder requirements	Listing mandatory
At least 25% of the REIT's capital has to be held by at least 500 public unit holders (SGD-denominated REITs) / Spread of holders required (non-SGD denominated REITs).	In principle, not required but necessary for the various tax concessions.

Unit holder requirements
For Singapore Dollar-denominated REITs listed on the Singapore Exchange, at least 25% of its capital must be held by at least 500 public unit holders. This percentage may be reduced if the market capitalisation of the S-REIT is greater than the minimum listing requirement. In the case of foreign currency-denominated REITs listed on the Singapore Exchange, a spread of holders necessary for an orderly market is required.

There is no distinction between resident and non-resident unit holders in respect of ownership. There are no restrictions on foreign unit holders.

Listing requirements
REITs need not be listed, but only a REIT that is listed on the Singapore Exchange is eligible for tax concessions. A REIT listed on a foreign exchange will not be eligible for the various tax concessions.

2.4 Asset level / activity test

Restrictions on activities / investments
- At least 75% of the REIT's deposited property should be invested in income-producing real estate. - No property development activities are allowed unless the REIT intends to hold the developed property upon completion. - May invest in foreign assets. - Should not derive more than 10% of its revenue from sources other than rental and other specified sources.

The Property Fund Guidelines state that a REIT may invest in:
a. real estate;
b. real estate-related assets;
c. listed or unlisted debt securities and listed shares of or issued by non-property corporations;
d. government securities and securities issued by a supra-national agency or a Singapore statutory board; and
e. cash and cash-equivalent items.

A REIT is also subject to restrictions on its investment activities, such as:
a. at least 75% of its deposited property should be invested in income-producing real estate;
b. no property development activities should be undertaken, whether on its own, in a joint venture, or by investing in unlisted property development companies, unless the REIT intends to hold the developed property upon completion;
c. a REIT should not invest in vacant land or mortgages;
d. the total contract value of property development activities and investments in uncompleted property developments should not exceed 10% of the REIT's deposited property;

e. not more than 5% of the REIT's deposited property should be invested in permissible investments (c), (d) and (e) listed above, when issued by a single party;
f. a REIT should not derive more than 10% of its revenue from sources other than rental payment from the tenants of the real estate held by the REIT or interest, dividends, and other similar payments from special purpose vehicles and other permissible investments of the REIT.

A REIT may invest in real estate by way of direct ownership or a shareholding in an unlisted special purpose vehicle (SPV) constituted to hold/own real estate. When investing in real estate as a joint owner, the REIT should make its investment by investing directly in the real estate as a tenant-in-common, or by acquiring the shares or interests in an unlisted SPV constituted to hold/own real estate. The SPV can take the form of a company, trust or partnership, etc.

2.5 Leverage

Leverage
Aggregate leverage should not exceed 35% of REIT's deposited property (this leverage limit may be increased to a maximum of 60%).

The aggregate leverage of a REIT should not exceed 35% of its deposited property. The 35% limit may be exceeded (subject to a maximum of 60%) only if a credit rating of the REIT from Fitch Inc, Moody's or Standard and Poor's is obtained and disclosed to the public.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of Taxable Income.	Not required.	- Annually or - Semi-annually or - Quarterly

Operative income
Strictly, there are no legal or regulatory requirements for a REIT to distribute any pre-determined percentage of its income as distributions for a given financial year. However, for investment in Singapore properties, in order to enjoy tax transparency treatment, a REIT is required to distribute at least 90% of its 'Taxable Income' in cash (or, for distributions from July 01, 2009 to December 31, 2010 and subject to certain conditions, in the form of units of the REIT) in a financial year.

'Taxable Income' refers to the following:
a. rental income or income from the management or holding of immovable property but not including gains from the disposal of immovable property;
b. income that is ancillary to the management or holding of immovable property but not including gains from the disposal of immovable property and Singapore dividends;
c. income (excluding Singapore dividends) that is payable out of rental income or income from the management or holding of immovable property in Singapore, but not out of gains from the disposal of such immovable property; and
d. distributions from an approved sub-trust of the real estate investment trust out of income referred to in (a) and (b) above.

For investment in overseas properties, there is generally no such requirement as tax transparency is not applicable. Instead, the REIT may qualify for tax exemption on certain foreign-sourced income that is remitted into Singapore.

Capital gains
Not required.

2.7 Sanctions

Penalties / loss of status rules
Loss of tax concession if S-REIT is de-listed.

If less than 100% but more than 90% of a REIT's Taxable Income is distributed, then the amount of the Taxable Income that is not distributed will be subject to tax at the corporate tax rate (currently 17%) in the hands of the trustee. If less than 90% of the REIT's taxable income is distributed, all of its Taxable Income will be subject to tax.

If the required asset level is not met and this leads to a de-listing of the REIT from the Singapore Exchange, then all tax concessions granted will cease to apply.

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Eligible rental income-exempt from tax.	No tax imposed on -capital gains.	No foreign withholding tax refunds in respect of tax-exempted income.

Current income
As noted above, for rental and property related income (e.g. car park charges, service fees) no tax is imposed at the REIT level if it has been accorded tax transparency treatment, or if it is rental from foreign properties that has been exempted. If taxable rental income is not distributed however, then the consequence noted above will ensue.

Foreign dividends, interest and trust distributions received in respect of investment in foreign properties may be exempt from Singapore income tax if certain conditions are met.

Capital gains
Singapore does not impose tax on capital gains. However, gains that are seen to be of a trading nature will be taxed at the prevailing corporate tax rate, currently 17%.

Gains or losses (unless the REIT's activities are such that it can be said to be carrying on a business of dealing in properties) from the sale of property are likely to be treated as capital gains or losses. If the REIT is indeed dealing in properties, then the gains would be taxed at the REIT level at the prevailing corporate tax rate, currently 17%.

Withholding tax
Foreign-sourced income of the S-REIT may qualify for tax exemption under general tax rules. Foreign withholding tax on such income (if exempted from tax) will not be credited or refunded.

Other taxes
See under no. 3.3 below.

Accounting rules
Local GAAP, which closely mirrors IFRS, apply. The income will be determined on accrual basis.

3.2 Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
- Stamp duties from 0.2-3%, remission if certain requirements are met. - Goods and Services Tax may be applicable. - No capital duty.

Stamp duty at approximately 3% is payable on the acquisition of real estate. This tax is payable by the buyer, unless agreed otherwise by the parties. However, remission from stamp duty is granted on the transfer of Singapore properties to an S-REIT, or a REIT that is listed within six months from the transfer, or such longer period as may be allowed. This remission is applicable to transfers executed between February 18, 2005 and March 31, 2015.

The transfer of Singapore properties may qualify as a transfer of a going concern and hence not be subject to Goods and Services Tax (usually 7%) or the S-REIT may avail itself of a concession that allows it to self-account for the Goods and Services Tax otherwise payable on the acquisition.

The S-REIT may also apply for a remission from stamp duty payable (0.2%) on the transfer of shares in Singapore companies that own foreign properties.

S-REITs that derive primarily dividend income or distributions (which are not taxable supplies for Goods and Services Tax purposes) can claim input tax on business expenses incurred between February 17, 2006 and March 31, 2015 by way of remission.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- 17% corporate tax. - Distributions out of capital gains are generally not taxable. - Capital gains on disposal of units are generally tax-exempt.	- Current income distributions are in principle tax-exempt. - Distributions out of capital gains are generally not taxable. - Capital gains on disposal of units are generally tax-exempt.	- Generally no withholding tax is imposed on domestic distributions.

Corporate unit holder

Distributions out of local-sourced rental income are taxed at the prevailing corporate tax rate of 17% upon assessment.

If disposal gains are determined to be 'capital' and hence not taxed at the REIT level, the distribution should also not be taxed in the hands of corporate domestic unit holders unless they hold the units in the REIT as trading assets. If the gains are determined to be 'trading gains' and hence taxed at the REIT level, the distribution is exempt from tax.

A return of capital is not taxed but will go towards reducing the cost base of units. For unit holders who hold the units as trading assets, the gains on disposal will be calculated using the reduced cost base.

Singapore does not impose tax on capital gains. Gains realised on the sale of the REIT units are not taxable unless the gains are considered to be trading gains or gains or profit of an income nature (e.g. if the unit holder holds the units as trading assets). Corporates who hold REIT units as trading assets are subject to Singapore income tax at the prevailing corporate tax rate, currently 17%.

There is no stamp duty on the sale of REIT units that are listed on the Singapore Exchange.

Individual unit holder

All distributions are exempt from tax, unless they are derived through a partnership in Singapore or from the carrying on of a trade, business or profession.

If disposal gains are determined to be 'capital' and hence not taxed at the REIT level, the distribution should also not be taxed in the hands of individual unit holders. If the gains are determined to be 'trading gains' and hence taxed at the REIT level, distributions out of such gains are exempt from tax.

A return of capital is not taxed.

Singapore does not impose tax on capital gains. Gains realised on the sale of the REIT units are not taxable, unless the gains are considered to be trading gains or gains or profit of an income nature. Individuals who hold REIT units as trading assets are subject to Singapore income tax at their respective tax rates.

Withholding tax

Withholding tax of 17% is applicable on a distribution out of Taxable Income by a REIT to unit holders who do not qualify for gross distributions or who did not submit the requisite declaration forms for their status to be ascertained. Distributions to domestic unit holders are not subject to withholding tax if certain conditions and procedures are complied with.

To ascertain if a unit holder is eligible for gross distributions, unit holders are required to submit a declaration form. The REIT must pay the tax withheld to the Singapore tax authorities by the 15th of the month following the date of payment.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax rate
- Final withholding tax on current income distributions. - Withholding tax is not applicable on distributions of tax-exempt income (e.g. foreign dividends). - Distributions out of capital gains are generally not taxable.	- Distributions and capital gains are generally exempt from tax.	- Withholding tax rate reduced from 17% to 10% on distributions to non-individuals made before February 17, 2010. - No treaty relief available.

Corporate unit holder

Current income distributions are subject to withholding tax at the prevailing corporate tax rate, currently 17%. A reduced rate of 10% applies for distributions made between February 18, 2005 and March 31, 2015.

If disposal gains are determined to be ‘capital' and hence not taxed at the REIT level, the distribution out of such gains is also not taxed in the hands of corporate foreign unit holders. If the gains are determined to be ‘trading gains' and hence taxed at the REIT level, distributions out of them are exempt from tax.

Withholding tax is not applicable on distributions of tax-exempt income (e.g. foreign dividends or interest received in respect of investments in foreign properties which qualify for exemption from Singapore income tax).

Distributions out of capital are not taxed.

Disposal gains are generally not taxable, unless they are considered to be trading in nature (e.g. if the unit holder holds the units as trading assets in a business carried on in Singapore).

Individual unit holder

Current income distributions are exempt from tax, unless they are derived through a partnership in Singapore or from the carrying on of a trade, business or profession.

Withholding tax is not applicable on the distribution of tax-exempt income (e.g. foreign dividends or interest received in respect of investments in foreign properties which are exempt from Singapore income tax).

If disposal gains are determined to be ‘capital' and hence not taxed at REIT level, distributions out of them are also not taxed in the hands of individual foreign unit holders. If the gains are determined to be ‘trading gains' and hence taxed at the REIT level, distributions out of them are exempt from tax.

Distributions out of capital are not taxed.

Generally, disposal gains are not taxable, unless they are considered to be trading in nature, for example if the unit holder holds the units as trading assets.

Withholding tax

Distributions to a foreign non-individual unit holder are subject to withholding tax at the prevailing corporate tax rate (this is reduced to 10% for distributions made between February 18, 2005 and March 31, 2015). The withholding tax of 10% applicable to distributions to foreign non-individuals is a final tax. There is no withholding tax on distributions to individuals.

Tax treaty rates are not applicable as the payment is a distribution from a unit trust (and not a dividend) and the tax withheld is a tax in lieu of tax payable by the REIT.

5 Tax treatment of foreign REITs and domestic unit holders

Foreign REIT	Corporate unit holder	Individual unit holder
Taxed under normal Singapore tax rules.	Tax-exempt.	Tax-exempt.

Foreign REIT
A foreign REIT will be taxable under normal Singapore tax rules. Therefore, if it invests in Singapore properties, it will not be eligible for tax transparency status and will pay tax on its net rental income.

Corporate unit holder
Distributions made by a foreign REIT (only if it is constituted as a trust) out of income derived from a direct holding of Singapore properties which has been assessed to tax as income from a trade or business may be treated as capital in the hands of unit holders. In other words, no further tax should be imposed on the distributions received by Singapore corporate unit holders.

Individual unit holder
Distributions made by a foreign REIT (only if it is constituted as a trust) out of income derived from a direct holding of Singapore properties which has been assessed to tax as income from a trade or business may be treated as capital in the hands of unit holders. In other words, no further tax should be imposed on the distributions received by individual Singapore unit holders. ■

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Global REIT Survey 2011

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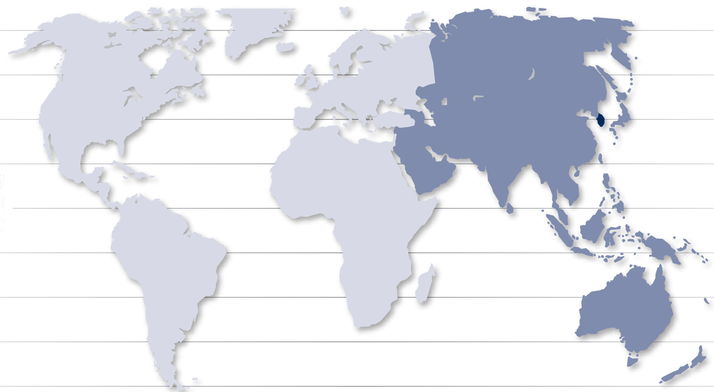
Asia

South Korea

(REIC)



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EPRA | REPORTING

European Public Real Estate Association

1 General introduction

	Enacted year	Citation	REIT type
REIC	2001	Real Estate Investment Company Act.	Corporate type.

The Real Estate Investment Company Act (REICA) was enacted in 2001. It lays the groundwork for Real Estate Investment Trusts in Korea. REICA governs Self-managed REITs (REIC), Paper-company Type REITs and CR-REITs (Corporate Restructuring REITs), the three REIT regimes in Korea.

There are about five listed REITs in Korea. The Self-managed REITs are corporate type REITs.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
South Korea	4	-22,9	0,2	0,0%

*Based on the website of Ministry of Land, Transport and Maritime Affairs ('MOLTM')

Top four REITs

Company Name	Market cap (€m)	Sector type
Korea Real Estate Investment Trust Co	113	Land, Property Securities, Office, Residential
KOCREF REIT VIII	33	Office, Residential
KR2 Development REIT Co Ltd	18	Leisure, Office, Residential
Golden Narae Real Estate Development Trusts Co Ltd	12	Commercial, Leisure, Residential

2 Requirements

2.1 Formalities / procedure

Key requirements
Approval from the Ministry of Land, Transport and Maritime Affairs.

A REIT must obtain a business licence from the Ministry of Land, Transport and Maritime Affairs ('MOLTM').

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
- Joint-stock company (General REIT, REIC). - CR-REIT: Special purpose company.	Self-managed REITs (REIC): 7 billion. Paper-company Type REITs and CR-REITs. (Corporate Restructuring REITs): 5 billion.

Legal form

A REIT can only be established as a stock corporation (called a Chusik Hoesa) under the Korean Commercial Code and REICA.

Paper-company Type REITs and CR-REITs are paper companies (special purpose company) and CR-REITs have finite lives, which should be stated in Articles of Incorporation and it should be dissolved when the period elapses.

The seat of a REIT must be established in Korea.

Minimum share capital

Under REICA, KRW 0.5 billion is required as the minimum capital for obtaining a business license. After this official permission, REIT should increase its equity capital within six months up to the following.

Self-managed REITs (REIC): KRW 7 billion
Paper-company Type REITs and CR-REITs (Corporate Restructuring REITs): KRW 5 billion

2.3 Shareholders requirements / listing requirements

Shareholder requirements	Listing mandatory
- A shareholder may not own more than 30% (35% for the period up to December 31, 2012) of the shares. - There are no restrictions on foreign shareholders.	Yes

Shareholder requirements

There are shareholding limitations as follows:

1. One shareholder and anyone who is specially related with the former shall not possess in excess of 30% (hereinafter referred to as the "upper limit of possession of stocks per person") of the total stocks issued by a REIT with an exception provided by Enforcement Decree of REICA;
2. Where a stockholder and the especially related person (hereinafter referred to as the "same person") possess stocks of a REIT in excess of the upper limit of possession of stocks per person in violation of paragraph (1), the extent of exercise of voting right shall be limited to the upper limit of possession of stocks per person.
3. At least 30% (20% for the period up to December 31, 2012) of the shares must be offered to the public within six months from official permission.

However, the above mentioned limitations do not apply to the case where certain shareholders (ex. Korean National Pension Corporation, etc) hold 30% or more shares in REICA.

Currently, there are no special restrictions on foreign shareholders.

Listing requirements

When a REIT becomes qualified to meet the listing standards under the Financial Investment Services and Markets Act, the REIT must list its stocks on the securities market of the Korea Stock Exchange or register them with the Korea Securities Dealers Association and make them traded either in the securities market of the Korea Stock Exchange or in the association brokerage market of the Korea Securities Dealers Association.

2.4 Asset level / activity test

Restrictions on activities / investments
- 70% must be invested in real estate. - 80% must be invested in real estate, real estate related securities and cash. - Not clear whether there are any restrictions for investment abroad either directly or indirectly. - Investment in a single property is possible. - Investment in real estate development is allowed within the limit of 30% of its assets if listed. - Investment in residential properties is allowed. - Investment in subsidiaries is not allowed, since REIT cannot acquire more than 10% of voting shares in other companies.

As of the end of each quarter, 80% or more of the total assets of a REIT must be real estate, real estate related securities and cash, and 70% or more of total assets of a REIT must be real estate (including buildings under construction).

In addition to those requirements, 70% or more of total assets must be corporate recovery related real estate in case of a CR-REIT. Corporate recovery related estate includes real property which a company sells to repay its debts to a financial institution, real property which a company sells to implement agreements with a financial institution providing debts to the company and real property which a company sells for corporate recovery under relevant laws.

For REITs, the minimum holding period of domestic real estate and overseas real estate are three years and the period as stipulated under the Articles of Association, respectively. For CR-REIT's there are no restrictions.

A REIT can invest in a real estate development project within 30% of its total assets, after its stocks are listed on the securities market of the Korea Stock Exchange or registered with the Korea Securities Dealers Association.

In spite of this restriction, a REIT specially established for developing business can invest in developing business without limitation.

A REIT is not allowed to hold more than 10% of voting shares in other companies with an exception including a merger and an acquisition of a business.

Currently, there is no clear rule on a REIT's holding real estate in foreign jurisdiction and thus, legal advice is required.

2.5 Leverage

Leverage
Maximum Debt: Equity ratio of 2:1.

A REIT can borrow funds or issue bonds within twice the equity value. If there is a special resolution by the general stockholders' meeting, a REIT can borrow funds or issue bonds within ten times the equity value.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% or more of distributable income.	Included in operative income.	Depends on Articles of -Association.

Operative income

A REIT must distribute 90% or more of distributable income.

There is no difference between a domestic and a cross-border profit distribution. The timing of the distributions depends on the Articles of Association.

Capital gains

Capital gains are subject to the distribution obligation.

2.7 Sanctions

Penalties / loss of status rules
- Imprisonment penalty. - Fine not exceeding KRW 50 million. - Revoke the establishment of REIT.

If the required asset level is not met, there is imprisonment penalty and a fine not exceeding KRW 50 million. Also, the Minister of Land, Transport and Maritime Affairs may revoke the establishment of REIT status if the required profit distribution is not met.

Any deviation from its obligations according to the applicable law results in regulatory action (i.e. penalty, withdrawal of licence, etc.).

Where the same person possesses stocks in excess of the upper limit of possession of stocks per person, the Minister of Construction and Transportation may order him to dispose of the stocks that are in excess of the upper limit of possession of stocks per person.

In case where the same person holds stocks in excess of the upper limit of possession of stocks per person after making his investment in kind, notwithstanding the provisions of paragraph (3), the Minister of Construction and Transportation may order him to dispose of his stocks that are in excess of the upper limit of possession of stocks per person during the period ranging from not less than one year to not more than one year and six months from the date on which the stocks are issued after the investment in kind is made.

Where the Minister of Construction and Transportation finds that a REIT fails to list its stocks on the securities market of the Korea Stock Exchange, or register with the Korea Securities Dealers Association without sound reasons, he may order the REIT to be listed or register its stocks within a period of time to be designated by him.

3 Tax treatment at level of the REIT

3.1 Corporate income tax

Current income	Capital gains	Withholding tax
Income technically tax-exempt, if 90% distribution requirement met.	Income technically tax-exempt, if 90% distribution requirement met, but in certain cases 33% capital gains surtax.	- No withholding tax levied on domestic distribution. - Entitled to claim a foreign tax credit with a certain ceiling of tax credit.

Current income
A Paper-company Type REIT and CR-REIT can claim a dividend paid deduction, if 90% of the distributable income is distributed as dividends and thus, technically, the corporate income tax of REIT can be nil.

Otherwise (REIC) the company is subject to corporate income tax at a rate of 10% for the first taxable income up to KRW 200 million and 22% for over the KRW 200 million thresholds[1]. 10% of corporate income tax is additionally levied as local resident surtax.

Capital gains
Under Korean Corporate Income Tax Law, the treatment of capital gains constitutes as ordinary income subject to the ordinary corporate income tax rate. There is no tax on capital gains if the 90% distribution obligation is met.

In addition, the capital gains surtax at a rate of 33% could be imposed on the sale of certain tainted assets such as housing or non-business purposes land. The 33% capital gains surtax should be imposed additionally also if the 90% distribution obligation is met.

[1] From the fiscal year beginning from January 01, 2012, the marginal corporate income tax rates will be reduced from 22% to 20%.

Withholding tax
If a REIT receives a distribution of a domestic company no withholding tax is levied. The REIT is entitled to claim a foreign tax credit with a certain ceiling of tax credit.

Other taxes
There are no other taxes levied on the corporate income.

Accounting rules
A financial statement single (not consolidated) should be prepared in accordance with Korean GAAP.

3.2 Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
- Acquisition tax. - Registration tax.

In general, when real estate in Korea is purchased by a company or constructed in Korea, 4.6% or 3.16% acquisition tax is imposed on the purchase price. There is no more registration tax when real estate is registered for reason of the acquisition of real estate.
On the other hand, the acquisition tax will be levied a heavy tax in accordance with a certain formula respectively if (i) the real estate is newly constructed or is used for head office in Seoul Metropolitan Area (SMA) or (ii) the real estate acquired by a company which has been registered in SMA for less than five years and is located in the SMA.

Compared to a regular company, a REIT would enjoy a 30% reduction in acquisition tax if real estate in Korea is purchased by December 31, 2012.

In addition, the capital registration tax is levied at the rate of 0.48% to 1.44% of the total par value amount of paid-in capital.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Subject to corporate income tax and resident surtax. - No difference between current income dividend and capital gains dividend. - Capital gains on disposal subject to ordinary income tax rate.	- Withholding tax of 15.4% final levy if interest and dividend income does not exceed KRW 40 million. - Capital gains tax exempt if certain thresholds are met.	- No withholding tax for domestic corporation. - Final withholding tax of 15.4% for Korean individual residents on distributions.

Corporate shareholder

A dividend is subject to corporate income tax. There is no difference between current income dividend and a capital gains dividend under the Korean tax law.

A return of capital distribution (capital redemption/retirement) may be a deemed dividend: the sum of funds and the value of other assets acquired by a shareholder in return for the retirement of stocks and redemption of capital in excess of the acquisition costs of the capital would be deemed as dividends. The deemed dividend is subject to corporate income tax.

"Under Korean Corporate Income Tax Law, the treatment of capital gains constitutes as ordinary income subject to the ordinary corporate income tax rate."

Individual shareholder

There is no difference between current income dividends and a capital gains dividend under Korean Law. The withholding tax of 15.4% is a final levy if interest and dividend income does not exceed KRW 40 million. If the aggregate interest and dividend income exceeds KRW 40 million, the individual is subject to the ordinary individual income tax rates ranging from 6.6% to 38.5%[2].

A return of capital distribution (capital redemption/retirement) may be a deemed dividend: the sum of funds and the value of other assets acquired by a shareholder in return for the retirement of stocks and redemption of capital in excess of the acquisition costs of the capital would be deemed as dividends. The deemed dividend is subject to withholding tax.

Individuals who hold less than 3% of listed REIT shares and proceeds from the sale of the listed REIT shares is less than KRW 10 billion are exempted from the income tax on capital gains. Otherwise individuals are subject to income tax.

Withholding tax

If its shareholder is a domestic corporation, then the dividend paid by a REIT is not subject to withholding tax. If its shareholder is Korean individual residents, then the dividend paid by a REIT is subject to 15.4% withholding tax.

If the shareholder is a foreign resident or corporation, then the dividend paid by a REIT is generally subject to 22% withholding tax. Such withholding tax could be reduced depending on the applicable tax treaty between Korea and a country where the shareholder is a resident.

In general, withholding tax should be collected when the dividend is paid. The dividend which is declared by a REIT but not paid to its shareholders within three months from the date of declaration of the dividend is deemed to be paid at the end of such three-month period.

[2] From January 01, 2012, the ordinary individual income tax rates will be changed to a range from 6.6% to 36.3%.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Withholding tax of 22%. - Can be reduced according to a tax treaty.	- Withholding tax of 22%. - Can be reduced according to a tax treaty.	Tax treaty relief available.

Corporate shareholder

A dividend is subject to Korean withholding tax at a rate of 22%, and can be reduced according to a tax treaty. There is no difference between current income dividend and a capital gains dividend.

A return of capital distribution (capital redemption/retirement) may be a deemed dividend: the sum of funds and the value of other assets acquired by a shareholder in return for the retirement of stocks and redemption of capital in excess of the acquisition costs of the capital would be deemed as dividends. The deemed dividend is subject to Korean withholding tax at a rate of 22%, and can be reduced according to a tax treaty.

Capital gains realised on the sale of the REIT shares are subject to the Korean withholding tax. The withholding tax rate for residents in non-treaty countries for REIT shares is the lesser of 22% of the gain or 11% of the gross proceeds, and the foreign shareholder is required to file a tax return on the capital gains taxed at the rate of 22% (the withheld tax is creditable). However, there is an exception. That is, the capital gains earned by a non-resident from the transfer of listed REIT shares through the Korean Stock Exchange or KOSDAQ are not taxable if such non-resident, together with its certain related parties, hold or have held less than 25% of the REIT shares at all times during the calendar year of the share transfer and the immediately preceding five calendar years.

Individual shareholder

For a foreign individual, the dividend paid by a REIT is subject to 22% withholding tax, but the withholding tax can be reduced depending on a tax treaty. There is no difference between current income dividend and a capital gains dividend.

The treatment of a return of capital distribution and capital gains realised on the sale of REIT shares earned by an individual shareholder is not different to a corporate shareholder except for the capital gains tax rate ranging from 6.6% to 38.5%[3].

Withholding tax

For a foreign individual or company, the dividend paid by a REIT is subject to 22% withholding tax, but the withholding tax can be reduced depending on a tax treaty.

In general, withholding tax should be collected when the dividend is paid, but the dividend which is declared by a qualified REIT but not paid to its shareholders within three months from the date of declaration of the dividend is deemed to be paid at the end of such three-month period.

[3] From January 01, 2012, the ordinary individual income tax rates will be changed to a range from 6.6% to 36.3%.

5 Treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Tax privileged with its Korean rental income.	No specific tax privilege.	No specific tax privilege.

Foreign REIT
A foreign REIT should report its Korean sourced rental income to the Korean tax authorities and should pay Korean income tax as if the REIT is a Korean resident (i.e. a Korean permanent establishment of the foreign REIT is created).

Corporate shareholder
A Korean corporate shareholder of a foreign REIT is subject to corporate income tax on the distribution received by the foreign REIT and can claim a foreign tax credit.

Individual shareholder
A Korean individual shareholder of a foreign REIT is subject to individual income tax on the distribution received by the foreign REIT and can claim a foreign tax credit. ■

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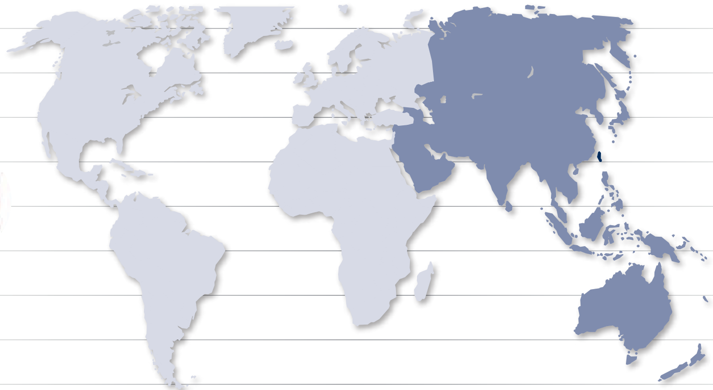
(REIT)



Global REIT Survey 2011

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EPRA | REPORTING

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1 General introduction

	Enacted year	Citation	REIT/REAT type
Taiwan REIT/ REAT.	Enacted in 2003 Last amended in 2009.	Real Estate Securitisation Act.	Trust type.

In Taiwan the Real Estate Securitisation Act (RESA) was enacted in 2003 and was last amended in 2009. The REIT (Real Estate Investment Trust) and REAT (Real Estate Asset Trust) structures are legally regulated by the RESA. The REIT and REAT structures are both in the form of a trust. The distinction is that a REIT will accept funds from investors which will be invested in specified properties, whereas a REAT will accept properties from a settler and then issue beneficiary certificates representing those properties.

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Taiwan	8	24,6	1,7	0,3%

Top five REITs

Company Name	Market cap (€m)	Sector type
Cathay No 1 REIT	460	Hotel, Office, Retail
Shin Kong No.1 REIT	307	Commercial, Office, Retail
Cathay No 2 REIT	214	Commercial, Hotel, Office
Fubon No 2 REIT	203	Commercial, Hotel, Office, Residential, Retail
Fubon No 1 REIT	183	Hotel, Office

2 Requirements

2.1 Formalities / procedure

Key requirements
Trustee shall submit certain documents to the competent authority (the Financial Supervisory Commission) for approval or effective registration.

According to Article 6 of the RESA, to publicly-offer or privately-place REIT Beneficial Securities, the Trustee shall submit the following documents to the competent authority for approval or effective registration:

- REIT plan;
- REIT trust agreement;
- Comparison table of the REIT trust agreement against the model of a standard trust agreement published by the industry association;
- Prospectus or investment memorandum;
- Documentation evidencing that the operating and managerial personnel of the REIT Fund is in compliance with the regulations prescribed by the competent authority;
- Name list, documentation of qualifications, and appointment agreement of the Trust Supervisor, if any;
- Minutes of the resolution adopted by the Trustee's board of directors for the public offer or private placement of REIT Beneficial Securities;
- Explanations regarding the method of managing and disposing of the trust property: Where a real estate management institution is appointed to manage or dispose of trust property, the appointment agreement or other documentary proof is needed;
- Case examination tables filled out by the Trustee and reviewed by a CPA or lawyer;
- Legal opinion of a lawyer; and
- Other documentation as required by the competent authority.

For Trustee companies purely engaged in the business of a real estate investment trust or a real estate asset trust, the competent authority may prescribe rules for the minimum issued capital, shareholders' structure, qualifications of the person responsible for the company, the expertise and experience of the company's management, and its business activities.

2.2 Legal form / minimum initial capital

	Legal form	Minimum initial capital for Trustee
REIT/ REAT	Trust Asset held by the Trustee.	Depending on the scope of business engaged by the trustee (ranging from NT$ 300 million to NT$ 2 billion).

Legal form

REITs and REATs are established as trusts and are administered by a Trustee. The term 'Trustee' refers to an institution that may manage and dispose of the trust property and publicly offer or privately place Beneficial Securities of the REIT/REAT, and is limited to the trust enterprises defined in the Trust Enterprise Act. In practice to date, Trustees have been local banks or branch offices of foreign banks in Taiwan.

According the Trust Enterprise Act, except for banks approved by the competent authority to conduct a trust business, a trust enterprise may only be a company limited by shares. The trustee of a REIT or REAT must also meet the following criteria:

- Be engaged in the trust business pursuant to the Taiwan Trust Law,
- Be established for at least three years,
- Have a credit rating no less than the rating requirement prescribed by the competent authority.

A trust company shall be a public company, which means that it is regulated under the Securities and Exchange Act as well as the Company Act and the shares to such trust company or its parent company are publicly-offered.

Minimum initial capital

To apply to establish a trust company, the minimum paid-in capital of ranges from NT$ 300 million to NT$ 2 billion depending on the scope of business engaged by the Trustee. The capital contributions must be made in cash only. The minimum paid-in capital required for a trust company engaging only in real estate investment trust (REIT) business under the RESA is NT$ 1 billion; the minimum paid-in capital for a trust company engaging only in real estate asset trust (REAT) business is NT$ 300 million; and the minimum paid-in capital for a trust company engaging in both REIT and REAT business only is NT$ 1 billion.

2.3 Certificate holder requirements / Listing requirements

Unit holder requirements	Listing mandatory
With regard to a public offering, certificates shall be held by at least 50 persons for at least 335 days during a fiscal year; and any five certificate holders shall not own more than × of the total value of the certificates issued. With regard to a private placement, the investors should be banks, finance bills enterprises, trust enterprises, insurance enterprises, securities enterprises, other juristic persons or institutions approved by the competent authority; or a natural person, juristic person or fund that meet the requirements as prescribed by the competent authority; and the total investors shall not exceed 35 persons in number.	No

Unit holder requirements

With regard to a publicly-offered REIT or REAT, certificates shall be held by at least 50 persons for at least 335 days during a fiscal year – except for independent professional investors, it is not required for the 50 persons to be the original holders of certificates. Any five certificate holders shall not own more than 1/2 of the total value of the certificates issued.

With regard to a privately-placed REIT or REAT, the investors should be banks, finance bills enterprises, trust enterprises, insurance enterprises, securities enterprises, other juristic persons or institutions approved by the competent authority; or a natural person, juristic person or fund that meet the requirements as prescribed by the competent authority. The total investors shall not exceed 35 persons in number.

According to Article 6. of the Standards for the Establishment of Trust Enterprises (SETE), the same person or same related parties respectively may not hold shares in the same trust company in an amount exceeding 25% of the total number of shares issued. The term 'same person' means the same natural person or the same juristic person; the term 'same related parties' includes the person, his or her spouse, blood relatives within the second degree, and enterprises of which the person or his or her spouse is a responsible person (i.e. Chairman, General Manager or other person in accordance with Taiwan Company Law).

Listing requirements

According to Article 3. of the SETE, the Trustee company shall be a public company, but there are no mandatory listing requirements.

The beneficial securities issued by the Trustee can be publicly offered or privately placed.

2.4 Asset level / activity test

Restrictions on activities / investments
Investment in real estate, related rights of real estate, securities of real estate, as well as other investment objects approved by the competent authority.

According to Article 17. of the RESA, the investment or utilisation of REIT funds shall be limited to the following objects:

1. existing real estate with stable income or real estate to be developed;
2. related rights of real estate with stable income or of real estate to be developed. Such "rights" refer to the superficies and other rights approved by the competent authority;
3. securities relating to real estate;
4. permitted utilisation as prescribed in Article 18. of the RESA; or
5. other investment or utilisation objects approved by the competent authority.

The total investment in the short-term commercial paper of any company shall not be greater than 10% of the net worth of the real estate investment trust as of the investment date.

The total amount of bank deposits, bank guarantees, bank acceptances or short-term commercial papers with any one financial institution shall not be greater than 20% of the net worth of the REIT or 10% of the net worth of the financial institution as at the investment date.

The total investment in certificates or asset backed securities issued or delivered by trustee institutions or special purpose companies shall not be greater than 20% of the net worth of the REIT as at the investment date.

According to Article 18 of the RESA, the utilisation of idle funds of the REIT Funds shall be limited to the following objects:

1. bank deposits;
2. purchase of government bonds or financial bonds;
3. purchase of treasury bills or negotiable certificates of time deposit;
4. purchase of commercial paper with a credit rating above a certain level or guaranteed or accepted by banks with a rating above the level stipulated by the competent authority; or
5. purchase of other financial products approved by the competent authority.

2.5 Leverage

Leverage
35%

The Trustee may borrow money with the trust property serving as collateral pursuant to the terms of the REIT Fund contract; however, the purpose of the borrowed money is limited to the needs of real estate operations and the distribution of profits, interests or other proceeds.

The Trustee may grant real estate mortgage rights or other security interests over the trust property acquired with the borrowed money.

To ensure the financial health of the REIT Funds, the competent authority may prescribe an upper limit of the ratio regarding borrowings by the Trustee. When the borrowings exceed the upper limit of the ratio, the Trustee shall make adjustments to the level of borrowing within the time prescribed by the competent authority. Currently, the upper limit is 35% of the net worth of the REIT.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
Pursuant to the REIT contract.	Pursuant to the REIT contract.	Within six months after the closing of the fiscal year.

According to Article 26 of the RESA, the proceeds derived from the REIT investment shall be distributed pursuant to the scheme provided in the REIT contract within six months after the closing of the fiscal year.

2.7 Sanctions

Penalties / loss of status rules
Transfer REIT/REAT to other trustee.

According to Article 55. of the RESA, if the trustee is not in compliance with the related law and regulations, the competent authority may appoint a new trustee for the REIT or REAT.

3 Tax treatment at level of the REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Tax-exempt	Tax-exempt	Refundable

Current Income

The Trustee is considered as a pass-through entity in terms of tax. Therefore, the income generated from the operation of the REIT funds is not subject to corporate income tax at the trustee level.

Capital gains

The Trustee is considered as a pass-through entity in terms of tax. Therefore, capital gains generated by the operation of the REIT funds are not subject to corporate income tax at the trustee level. However, the Land Value Increment Tax, applicable to the increase in sale value over purchase value of land, will be paid by the REIT upon the sale of the real estate.

Withholding tax

According to Article 89-1 of Income Tax Act, withholding tax on the revenue arising from the trust property shall be withheld at source in the name of the Trustee at the prescribed rate under the Income Tax Act. The withholding rate applied depends on the category of the income. Generally, interest income of REIT will be subject to a 10% withholding rate. Rental revenues received by the Trustee will not be subject to withholding if the GUIs (Government Uniform Invoice) are issued by the Trustee and the tenants are individuals. Withholding tax withheld may be recovered by the Trustee from the tax authority.

Other taxes

The Trustee is the taxpayer of land value tax imposed on the registered owner of property.

3.2 Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
- There are registration fees for the formation of the Trustee. - There is no tax/fee/duty imposed on the issuance of the beneficial securities.

No duty is imposed on the issue of beneficial securities.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- The distribution shall be consolidated into gross corporate income since January 01, 2010. - Capital gains corporate tax-exempt, but subject to alternative minimum tax.	- Withholding tax final levy on distributions. - Capital gains tax-exempt.	- Final withholding tax of 10%.

Corporate unit holder

The distributed amount shall be the beneficiary's interest income.

Capital gains from the sale of beneficiary certificates are exempt from corporate income tax; however, such gain will be subject to the alternative minimum tax (AMT). Taiwan companies or foreign companies having permanent establishments entitling them to tax-exempt capital gains, claiming tax holidays or other tax incentives in Taiwan must calculate AMT income by using taxable income calculated in accordance with the regular income tax system, plus the add-back of certain tax-exempted income. Taiwan companies are required to compare their regular income tax against their AMT income tax, and pay whichever is higher. The AMT rate for companies is currently at 10% with an exemption if AMT income does not exceed NT$ 2 million.

Individual unit holder

The distributed amount shall be the beneficiary's interest income.

Capital gains from the sale of beneficiary certificates are exempt from individual income tax. The AMT rate for individuals is currently at 20% with an exemption if AMT income does not exceed NT $6 million.

Withholding tax

Distributions to domestic individual unit holders will be subject to 10% withholding tax, which is the final tax for domestic individual unit holders of REITs (the distributions received by the unit holders are not included in the unit holders' personal income tax returns). The 10% withholding tax is not creditable against the unit holder's individual tax payable resulted from other sources of income. Distributions to domestic corporate unit holders will be consolidated into gross corporate income of the domestic corporate unit holders.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
Final withholding tax of 15%.	Final withholding tax of 15%.	No tax treaty relief available.

Corporate unit holder/individual unit holder

Capital gains from the sale of beneficiary certificates by foreign unit holders are exempt from income tax.

Withholding tax

The distribution to foreign corporate unit holders or foreign individual unit holders will be subject to 15% withholding tax which is the final tax for the foreign unit holders.

5 Tax treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
- Investment income subject to withholding tax. - Capital gains are tax free.	Corporate income tax.	Needs further clarification.

The tax implications for foreign REIT and its domestic unit holders are not clear under the current tax regulations. The following analysis is for reference purpose only.

Foreign REIT

The tax implications will depend on the nature of the investment income. Except for the preferential rate provided under applicable tax treaties, investment income (including interest and dividends from approved investments) will be subject to a 20% withholding rate. The capital gains attributable to Taiwan securities investments (including government bonds, corporate bonds and shares) are tax-exempt.

Corporate unit holder

For Taiwan-incorporated profit-seeking enterprises, the corporate income is assessed on a worldwide basis. Thus, Taiwanese companies shall include income distributed by the foreign REIT for their income tax purposes. Foreign tax relief is applicable under Article 3. of the Taiwan Income Tax Act.

Individual unit holder

Individual income tax is imposed only on Taiwan-sourced income. An individual's overseas investment income shall be subject to AMT since January 01, 2010. However, whether the income received from a foreign REIT investing in Taiwan assets would be considered as individual unit holder's non-Taiwan sourced income is in question. Further clarification is required from the Ministry of Finance. ■

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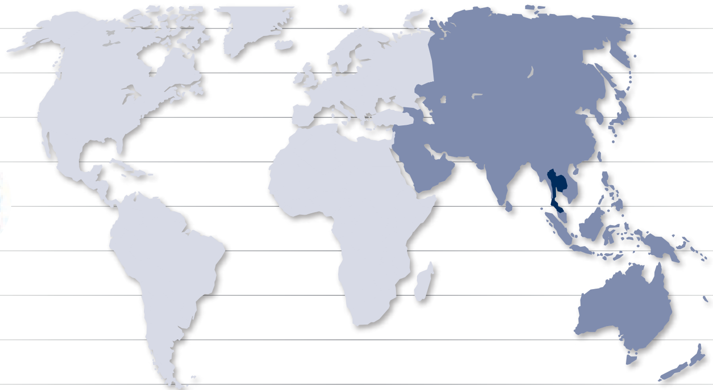
Global REIT Survey 2011

September

Asia

Thailand

(PFPO)



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1 General introduction

	Enacted year	Citation	REIT type
PFPO	1992	Securities and Exchange Act B.E. 2535	Fund type

Only the Type I Property Fund, the property fund for public offering (PFPO), is currently available in Thailand. This is a type of mutual fund and is listed on the Stock Exchange of Thailand (SET).

The PFPO is established for the purpose of raising funds from the public to invest in income-producing real property (office buildings, service apartments, industrial factories, etc.).

The law regulating the PFPO is the Securities and Exchange Act B.E. 2535. It was enacted in 1992.[1,2]

Sector summary (end of July 2011)

Listing Country	Number of Companies	Sector Performance-12 Months %	Sector Mkt cap €bn	% of Global REIT MKT
Thailand	6	20,7	0,4	0,1%

[1] EUR 1 = THB 40.2464, as of Bank of Thailand's December 30, 2010 daily average selling rate
[2] According to Ernst & Young's Global Real Estate Investment Trust Report in 2010, Global Market Capitalization of REIT at December 31, 2009 is USD 568 billion (USD 1 = THB 32.5739, as of Bank of Thailand's May 19, 2010 daily average selling rate)

Top five REITs[3]

Company Name	Market cap (€m)	Sector type
TICON Property Fund	270	Industrial
Millionaire Property Fund	58	Industrial,Office
MFC Nichada Thani Property Fund	28	Residential
Bangkok Commercial Property Fund	22	Commercial, Office, Residential
ING Thai Industrial Fund 1	17	Industrial

Pending legislation

In October 2010, the Securities Exchange Commission of Thailand (SEC) approved a regulatory framework for Real Estate Investment Trusts (REITs) in Thailand. The groundwork for Thailand's proposed REITs began with the passage of the Trust for Transactions in Capital Market Act B.E. 2550 (2007), which allows trusts to be recognised as a form of asset management under Thai laws.

The proposed REIT is expected to be aligned with REITs on the international level and will provide the flexibility that the current PFPO lacks, including:

- The ability to invest in a broad range of real estate property;
- The ability the leverage up to 50% of its net asset value (as compared to 10% under the PFPO regulations) ; and
- Relaxing the requirement on holding restriction for affiliated companies from one third of trust certificates sold to 50% of trusts certificates sold.

Existing SEC regulations will continue to apply to the REIT framework, such as rules on corporate governance and management restrictions, as well as additional rules such as the rights of trust unit holders and licensing of REIT management companies. The current PFPO will be able to convert into the REIT.

[3] Ranked by Net Asset Value (NAV) as of December 30, 2010

As of March 2011, the Thai government has announced that the enactment of the REIT framework will be delayed as the Revenue Department is currently reviewing tax issues associated with REITs.

2 Requirements

2.1 Formalities / procedures

Key requirements
- PFPO can only be established and managed by an Asset Management Company (AMC) through a Public Offering. - AMC must be licensed by the Thailand Ministry of Finance.

The Type I Property Fund can only be established and managed by an Asset Management Company (AMC) through a Public Offering (PO).

The AMC must be licensed by the Thailand Ministry of Finance and regulated by the Office of Securities and Exchange Commission of Thailand.

While Asset AMC is responsible for setting up and managing the fund, there is a fund supervisor ensuring that the AMC will operate the fund in accordance with the scheme. Also, an expert property service provider is occasionally appointed by AMC to carry on a day-to-day operation of the property.

2.2 Legal form / minimum initial capital

Legal form	Minimum initial capital
Closed-ended fund	Baht 500 million

Legal form
The PFPO can only be established as a closed-ended fund.

Minimum initial capital
A capital of minimum Baht 500 million is required.

2.3 Unit holder requirements / listing requirements

Unit holder requirements	Listing mandatory
- At least 250 unit holders are required for an IPO. - At least 35 unit holders are required after SET listing[4]. - No more than 33.33% of unit holders can be related persons[5]. - No more than 49% of unit holders can be foreign investors, in case the property fund directly owns (i) land or (ii) a condominium more than 49% of the total area including the area owned by other existing foreign owners.[6].	Yes

Unit holder requirements
The minimum number of unit holders is 250 unit holders for an IPO and ten unit holders after listing in the Stock Exchange of Thailand (SET).

Former property owners and related persons i.e. three layers above and below (of at least 10% shareholding at each layer) the institutional investors, shall not acquire more than 1/3 of total units sold.

The ‘small lot first’ practice is in place for units allocation. This practice means the fund units will be allocated to those subscribed in small lots first, before being allocated to those subscribed in ‘big’ lots.

Listing requirements
Listing at the Stock Exchange of Thailand (SET) is mandatory.

[4] No. 77 (1) of the SEC’s Regulation No. 25/2552.
[5] SEC’s Regulation No. SorNor. 26/2552 effective from August 16, 2009 onwards.
[6] SEC’s Regulation No. SorNor. 53/2552 dated October 29, 2009 effective from November 16, 2009 onwards.

2.4 Asset levels / activity test

Restrictions on activities / investments
- 75% of the net asset value invested in property. - Property must be at least 80% complete. - Property must be located in Thailand. - The PFPO cannot purchase real property in dispute. - Property insurance required. - AMC must conduct feasibility studies before investment decisions are made. - AMC must appoint a property appraiser, property prices are based on appraisals. - Property re-evaluation every two years.

No less than 75% of the net asset value must be invested in property. The fund may only invest in completed property or property that is at least 80% complete. Also, the PFPO may only invest in property which is located in Thailand. Real property in dispute is not allowed to be purchased or leased. Additionally, property insurance is required.

The fund can generate capital gain income of at most 25% of the total income.

The AMC is required to conduct feasibility studies for investment decision-making. Acquisition and disposal prices must be based on an appraisal price. To purchase/dispose property, the AMC must appoint a property appraiser approved by the SET to appraise the property and disclose the results to investors. Properties must be revalued every two years.

A PFPO may invest in subsidiaries.

2.5 Leverage

Leverage
Borrowing is prohibited.

The PFPO is prohibited from borrowing.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of net profit.	90% of net profit.	Within 90 days of the end of each accounting period.

Operative income
At least 75% of the total income of the fund must be generated from rental income. At least 90% of the net profit must be distributed to unit holders within 90 days after the end of each annual accounting period.

Capital gains
Also at least 90% of capital gains are to be distributed. Only at most 10% of the net profit can be retained by the fund without being distributed to the unit holders.

2.7 Sanctions

Penalties / loss of status rules
N/A

3 Tax treatment at the level of REIT

3.1 Corporate tax / withholding tax

Current income	Capital gains	Withholding tax
Not subject to income tax, but a 12.5% Land and Building tax on rental income of immovable properties levied.	Tax-exempt.	N/A

Current income
PFPO is not subject to income tax, but it pays a 12.5% Land and Building Tax on the annual rental income of immovable properties.

Capital gains
Capital gains are not taxed at the level of PFPO.

Withholding tax
On distributions to a PFPO, no withholding tax is levied.

Other taxes
Service income from movable and immovable properties as well as income from the disposal of properties is exempt from the VAT. Likewise, interest income and the income from the disposal of immovable properties are exempt from the Specific Business Tax (SBT). The PFPO is also exempt from the Stamp Duty.

The PFPO is to pay a once-off registration fee of 1% on the amount of rental fee of immovable properties (only if the lease period is more than three years); and 2% (reduced to 0.01% for two years commencing from March 29, 2008 for certain types of immovable properties) transfer fee of the official appraised price for the income on disposal of immovable properties. The official appraised price refers to the value of the immovable properties (according to its type and location) assessed by the Land Department. The 2% transfer fee is reduced to 0.01% for the transfer of immovable properties to the property fund.

Accounting rules
The PFPO is to observe the Thai Generally Accepted Accounting Principles.

3.2 Transition regulations

Conversion into REIT status
No direct conversion to property fund status is allowed.

No direct conversion to property fund status is allowed. However, an existing entity with real estate assets can sell its assets to the property fund.

The real estate assets must be sold by an existing entity to the property fund at market value.

3.3 Registration duties

Registration duties
Reduced transfer fee of 0.01%.

Under the Land Code, a property transfer fee at rate of 2% (reduced to 0.01% for two years commencing from March 29, 2008 for certain types of immovable properties) of the official appraised value of the property transferred is due on property transfers. However, if the real estate property is acquired by a property fund, such transfer fee is reduced to 0.01%.

In the case of selling an immovable property, there will be a 2% (reduced to 0.01% for two years commencing from March 29, 2008 for certain types of immovable properties) transfer fee levied on the appraised value of the property. However, if the property is sold to a property fund, such fee can be reduced to 0.01%. In practice, the responsibility of this property transfer fee would depend on the negotiation between the seller and the buyer, and if the negotiation is finalised, the clause regarding this property transfer fee should be stipulated in the sale and purchase agreement.

In the case of leasing an immovable property, there will be a 1% registration fee levied on the total rental income if the lease period is more than three years.

4 Tax treatment at the unit holder's level

4.1 Domestic unit holder

Corporate unit holder	Individual unit holder	Withholding tax
- Generally distributions 50% (unlisted company) or 100% (listed company) tax exempt. - 30% income tax on capital gains.	- Income tax of 10-37%. - If unit holder allows the fund to deduct 10% withholding tax, this withholding tax is final levy. - Capital gains tax-exempt.	- 10% or 0% withholding tax on distributions to an individual unit holder. - No withholding tax levied on distributions to a corporate unit holder.

Corporate unit holder
Corporate unit holders may receive a 50% or a 100% exemption on income taxes on profit distribution. A corporate unit holder is 100% exempt if it is a listed company in SET, and 50% exempt if it is a non-listed company and the company holds units in the fund at least three months before and after the distribution of the share of profit. Otherwise normal corporate tax rules apply.

A 30% income tax is levied on capital gains.

Individual unit holder
Individual unit holders are to pay 10-37% income taxes on profit distribution. If the unit holder allows the fund to deduct 10% withholding tax upon payment, the withholding tax is final levy.

Individuals are exempt from income tax on capital gains made from disposal of the fund units.

Withholding tax
If the individual unit holder allows the fund to deduct 10% withholding tax upon payment, the withholding tax is final levy. Otherwise individual rates are applicable. Capital gains made by an individual are exempt from withholding tax. Withholding tax is not applicable to corporations.

4.2 Foreign unit holder

Corporate unit holder	Individual unit holder	Withholding tax
N/A	N/A	N/A

Corporate unit holder
No Thai taxes are imposed on foreign corporate unit holders on income or on capital gains. The income is viewed by the Revenue Department as commercial income under Section 40(8) of the Revenue Code and not subject to withholding tax when it is paid to a beneficiary overseas. There is no specific exemption, but foreign companies are outside the Thai tax regime.

Individual unit holder
No Thai taxes are imposed on foreign individual unit holders on income or on capital gains. The income is viewed by the Revenue Department as commercial income under Section 40(8) of the Revenue Code and not subject to withholding tax when it is paid to a beneficiary overseas. There is no specific exemption, but foreign individuals are outside the Thai tax regime.

Withholding tax
No withholding taxes are imposed on overseas investors.

5 Tax treatment of foreign REIT and its foreign unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
Same as other foreign companies.	N/A	N/A

Foreign REIT

The Thai tax treatment of a foreign REIT will be the same as that of another foreign individual or company, provided that it is considered as a non-resident entity as supported by the certificate of residency issued by the relevant foreign tax authority.

Corporate unit holder

Given that it is a foreign unit holder of foreign REIT, no Thai tax would be applicable on any types of income paid from foreign REIT to its foreign unit holders.

Individual unit holder

Given that it is a foreign unit holder of foreign REIT, no Thai tax would be applicable on any types of income paid from foreign REIT to its foreign unit holders. ■

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