Listing a Real Estate Investment Trust (REIT) in Singapore or China

Singapore

INTRODUCTION

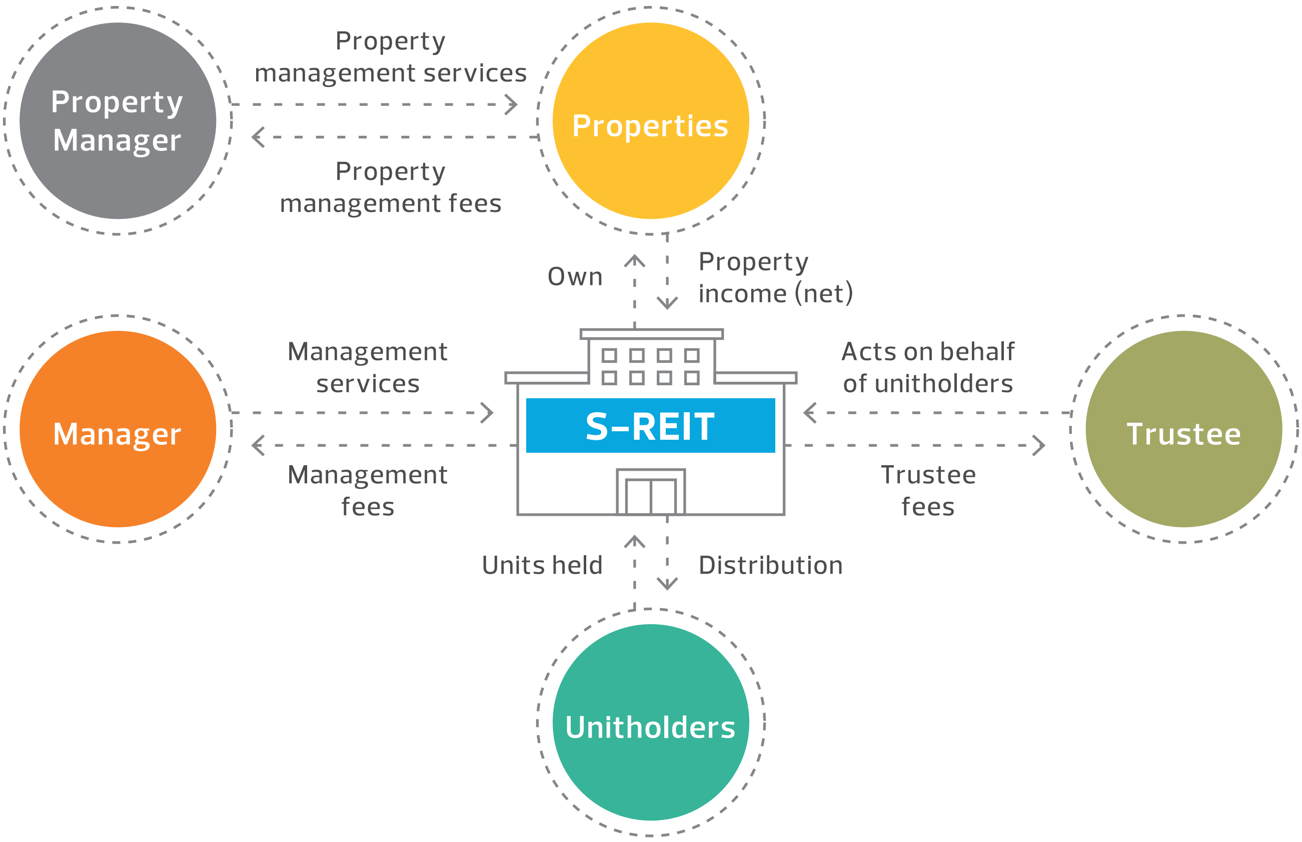
From the listing of Singapore's first REIT in 2002 (i.e. the CapitaLand Mall Trust in 2002), the Singapore REIT sector has grown in leaps and bounds. As at July 2021, Singapore has 42 REITs and property trusts with a combined market capitalisation of S$111 billion which represents approximately 12% of Singapore's overall listed stocks. Singapore is currently the largest REIT market in Asia (excluding Japan) and it is increasingly becoming a global REIT hub.

As of July 2021, over 80% (i.e. 35) of S-REITs and property trusts (by both number and market capitalisation) own properties outside Singapore across Asia Pacific, South Asia, Europe and the US. There are 16 S-REITs whose real estate portfolios comprise entirely of overseas properties.

The S-REIT market is also well diversified across different sub-sectors such as offices, healthcare, retail, industrial and data centres.

Source: SGX Research Chartbook: S-REITs and Property Trusts – July 2021

Sample Structure of an S-REIT



TAX TRANSPARENCY

A trustee of a REIT is taxed at the prevailing corporate tax rate on the REIT's income. Where the tax transparency treatment applies, the specified income that is distributed to the unitholders will not be taxed in the hands of the trustee. To enjoy tax transparency treatment, an S-REIT will be required to distribute **at least 90%** of its "**specified income**" in a financial year.

Consequently, the trustee is taxed on the following incomes that do not qualify for tax transparency treatment:

a. Specified income derived by the REIT but not distributed to the unitholders in the same year in which the income is derived

b. Income other than the specified income including gains from the disposal of investments such as immovable properties, shares, etc. that are determined by the Comptroller of Income Tax (CIT) to be revenue gains chargeable to tax

WHAT IS "SPECIFIED INCOME" FOR A REIT?

(Sec 43(2A) and (b) of the Singapore Income Tax Act (SITA))

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

c. **Income 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

d. **Rental support payment** that is paid to the trustee on or after 29 December 2016 by:

    i. the seller who sold to the trustee the property or any interest in the owner of the property;

    ii. a person who wholly owns (directly or indirectly) the seller; or

    iii. any other person approved by the CIT.

e. **Distributions from an approved sub-trust** of the REIT out income referred to in (a), (b) and (c) above

CERTAIN DISTRIBUTIONS WHICH ARE TAX EXEMPTED

Distributions by an S-REIT from the following will be exempt from Singapore tax in the hands of the investors (i.e. unitholders):

- Income taxed at the trustee level
- Capital gains
- Income originating from the holding of foreign properties, which is exempt under sections 13(8) [foreign-sourced dividends, branch profits & service income] or 13(12) [please refer to Appendix 1]
- Dividends from Singaporean companies

REIT DISTRIBUTIONS – INVESTORS

UNITHOLDERS	TAX TREATMENT	REMARK
Individuals who derive any distribution through a partnership in Singapore or from carrying on a trade, business or profession	Tax at the individual's tax rates	Section 45G withholding tax (WHT) is not applicable
Other individuals (both resident and non-resident)	Exempt from tax – Section 13(1)(zh)	
▪ Companies incorporated and resident in Singapore ▪ Singapore branches of companies incorporated outside Singapore for distributions received on or after 1 January 2015 ▪ Bodies of persons incorporated or registered in Singapore	▪ Tax at respective tax rates unless otherwise exempt	
REIT Exchange-Traded Funds (ETFs) accorded the tax transparency treatment	Not subject to tax in the hands of the trustee of the REIT ETF in respect of distributions made during the period from 1 July 2018 to 31 December 2025	
Qualifying non-resident non-individuals (e.g. non-resident corporate investors)	Subject to 10% final withholding tax for distributions made from 18 February 2005 to 31 December 2025	Section 45G(1)(a) WHT is applicable
Qualifying non-resident funds	Subject to 10% final withholding tax for distributions made from 1 July 2019 to 31 December 2025	
Others	Subject to withholding tax at the prevailing corporate tax rate	Section 45G(1)(b) WHT is applicable

OTHER TAXES

Stamp Duty

For properties in Singapore

Buyers' Stamp Duty (BSD) – Sale or transfer of immovable property is subject to up to 3% stamp duty (non-residential properties), and up to 4% stamp duty (residential properties) on the purchase consideration, or the market value of the asset, whichever is higher. Additional Buyers Stamp Duty (ABSD) of up to 30% may also be applicable.

Seller's Stamp Duty (SSD) – For industrial properties, SSD is imposed at the rate of 5 to 15% (depending on the duration the property was held and disposed within three years). For residential properties, SSD is imposed at the rate of 4 to 12%, also depending on the duration the property was held and disposed within three years.

Stamp Duty Exemption (Section 36 "Exemptions" of the Stamp Act)

No duty shall be chargeable in respect of

> Section 36(b) "any instrument for the sale, transfer, lease or other disposition, either absolutely or by way of mortgage or otherwise, of land situated outside Singapore or any share, estate or interest in land situated outside Singapore."

Goods and Services Tax (GST)

A REIT can be registered for GST. Once registered, the REIT has to charge GST (at the prevailing rate of 7%) on the rental and related incomes derived from its property holding, property management and related activities.

GST concession is granted to S-REITs and S-Registered Business Trusts (S-RBTs) carrying on qualifying businesses, namely infrastructure business, aircraft leasing, and ship leasing. S-REITs are able to claim GST incurred on business expenses, excluding disallowed expenses under Regulations 26 and 27 of the GST (General) Regulations, regardless of whether they are GST registrable or not.

In February 2015, the concession was further enhanced by extending it to Special Purpose Vehicles set up by S-REITs and qualifying S-RBTs, solely to raise funds for business operations of the S-REITs.

Taxation of REITS in Singapore

Illustration of a REIT listed in Singapore solely holding properties in the People's Republic of China ("PRC")

Investors (unitholders)

Investors	Tax treatment on REIT distribution
Individuals (resident & non-resident)	Exempt
Singapore resident companies	Taxed on non-exempt portion
Non-Singapore resident corporates	10% final withholding tax

> 90% distribution (tax transparency rules apply)

S-REIT

Sec 36 of the Stamp Act

Stamp duty exemption for any instrument for the sale, transfer, lease or other disposition, either absolutely or by way of mortgage or otherwise, of land situated outside Singapore or any share, estate or interest in land situated outside Singapore.

Singapore

PRC

Sec 13(8) Exemption

- Dividends
- Loan interest
- Property management income

→ Sec 13(12) exemption

China investors in S-REIT	Tax on REIT distribution
Resident individuals	20%
Resident corporations	25%

PRC company holding properties

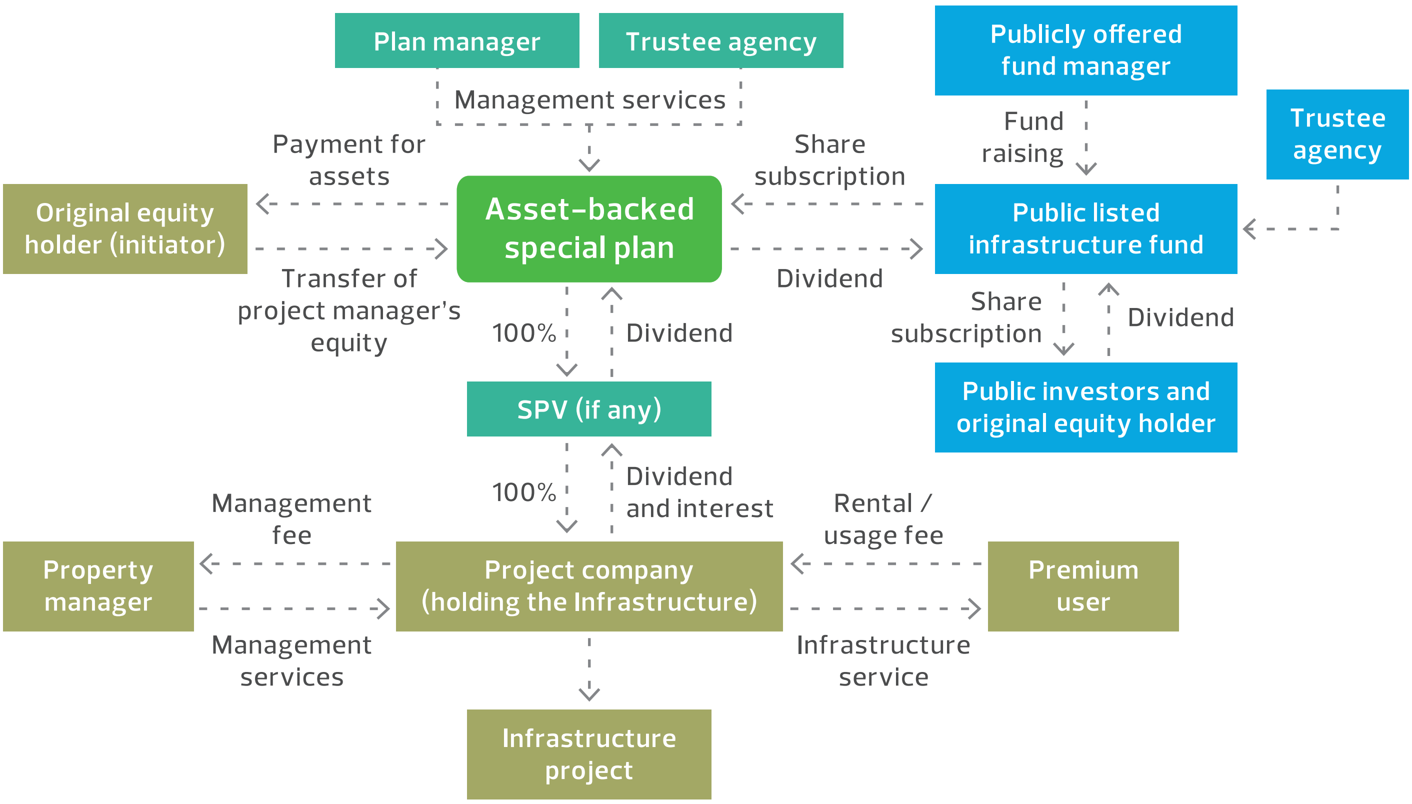
China REIT (C-REIT)

Under a pilot scheme, nine C-REITs (see below) were floated on the Shanghai and Shenzhen stock exchanges respectively on 21 June 2021. The REITs are backed by real assets, such as infrastructure projects and certain types of real estate, including logistics and business parks. C-REITs are currently limited to infrastructure and certain types of real estate, at present, logistics and business parks. There are also geographical limitations.

A recent circular from China's National Development and Reform Commission confirmed that affordable rental housing will be promoted as a sector suitable for REITs, which will spark further Initial Public Offerings (IPOs).

1	Bosera China Merchants Shekou Industrial Zone
2	HuaAn Zhangjiang Everbright Park
3	Soochow Suzhou Industrial Park
4	Hongtu Innovation Yantian Port Warehousing and Logistics
5	CICC GLP Warehouse Logistics
6	AVIC Shougang Biomass fund
7	Fullgoal Capital Water
8	Zheshang Securities Zhejiang Expressway
9	Ping An Guangzhou Comm Invest Guanghe Expressway

Sample structure of a C-REIT



TAX TRANSPARENCY AND TAX TREATMENT

C-REITs are tax-transparent and they pay out majority of their profits in dividends. China's new infrastructure REITs are however, structured like public funds that invest in asset-backed securities, which indirectly own the underlying assets.

The fiscal and tax departments are currently studying the relevant tax policies for listed C-REITS and will be issuing a complete set of tax policies on the matter in due course. However, it is anticipated as the underlying assets or project companies often involve real estate, there will be various taxes such as corporate income tax, value-added tax, land value-added tax, and deed tax according to their different restructuring forms that need to be considered.

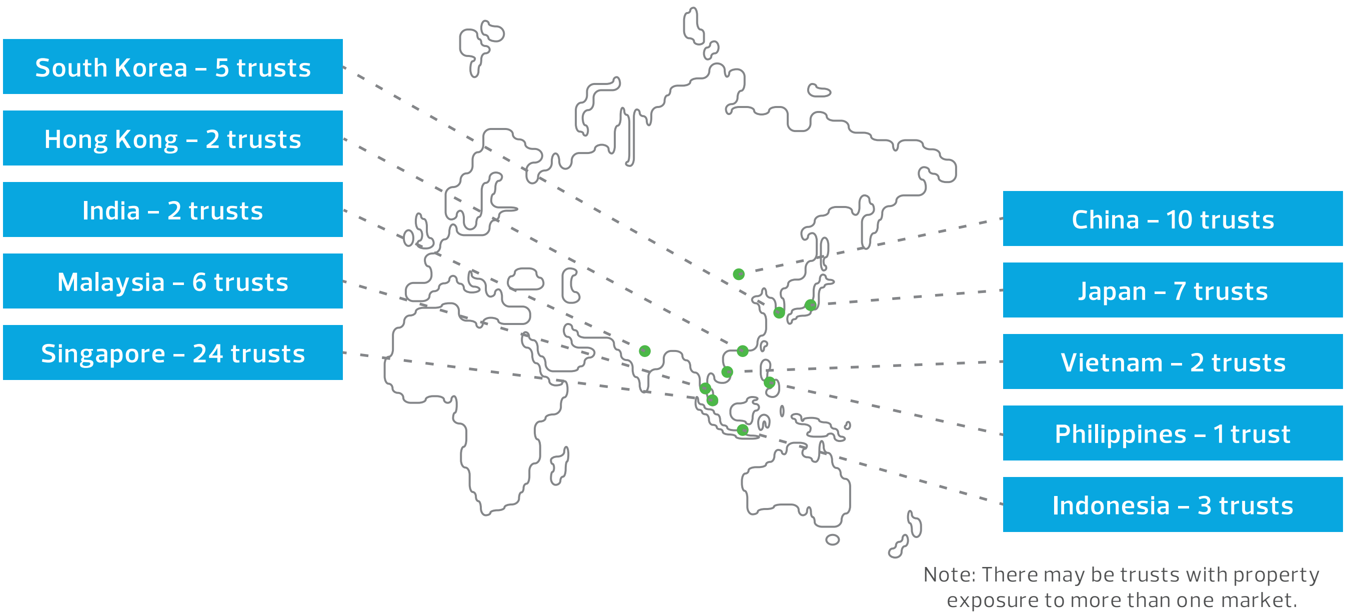
REIT DIVIDENDS – INVESTORS/UNITHOLDERS

- **Corporate enterprises** (also known as tax resident enterprises [TREs]) are subject to corporate income tax (CIT) on their worldwide income. Under the CIT law, the standard rate is 25%.
- **Individual residents** are generally subject to PRC individual tax (IIT) on their worldwide income. Excluding annual comprehensive income, a flat rate of 20% is applied on the remaining categories of income, including incidental income, rental income, dividends and capital gains, unless specifically reduced by the State Council.

Conclusion

Singapore has been the hub for setting up of REITs for almost 20 years. The number of listed REITs now stands at 42 REITs with asset holdings worldwide. The number of S-REITs with Pan Asian exposure is as below:

S-REITs that have Pan Asian Exposure



Source: SGX Research Chartbook: S-REITs and Property Trusts – July 2021

The PRC has made a promising start to the listed REIT market this year, with many of the listed C-REITs performing well. However, several laws, regulations and guidance, including those for tax are still being studied and formulated. Whilst such policies will be made clear in due course, there are uncertainties that C-REITs have to deal with at this juncture.

Singapore is able to provide a more mature market for listing of S-REITs and also allows holding of more asset classes in comparison to C-REITs, which are currently restricted to certain assets, such as infrastructure and logistics assets.

Depending on the asset holdings of a potential REIT, the markets the REIT wants to have presence in, and the regulatory framework of each country, the pros and cons between listing the REIT in Singapore and the PRC have to be weighed.

INCOME TAX CONSIDERATIONS

Singapore

When S-REITs distribute to resident or non-resident individual investors/unitholders, they will enjoy Singapore income tax exemption on the distributions. Resident corporate unitholders will enjoy Singapore income tax exemption on designated income. Whilst non-resident corporate unitholders' distributions will only be subject to a 10% withholding tax.

PRC

Distributions receivable from S-REITs by PRC investors/unitholders will be liable to PRC income tax at 25% (corporates) and 20% (individuals) respectively. This is no different, had it been distributions receivable from C-REITs. The 10% Singapore withholding tax suffered on the distributions from S-REITs should be creditable against the PRC tax payable by corporate investors/unitholders on the same income upon the approval from the Chinese tax bureau.

APPENDIX 1

Singapore **Section 13(12) tax exemption** will be granted on S-REIT foreign income received by the trustees of S-REITs or their wholly-owned Singapore resident subsidiary company if the Comptroller of Income Tax (CIT) is satisfied that certain qualifying conditions are met. The table below summarises the qualifying conditions:

	FOREIGN-SOURCED DIVIDENDS / TRUST DISTRIBUTIONS BY FOREIGN TRUSTS / FOREIGN BRANCH PROFITS	FOREIGN-SOURCED INTEREST
(a)	The income originates from an overseas entity with headline tax rate of at least 15%	Same
(b)	Dividend/trust distribution/branch profits originate from rental income from overseas property, capital gains from disposal of such overseas property or income derived from approved REIT property related activities	Same
(c)	Tax has been paid overseas on property rental income where the overseas property is situated	Tax has been paid overseas on the interest income. Where there is no foreign tax paid, conditions apply
(d)	Singapore source funds used to finance the overseas property investment must originate from specified sources	Same
(e)	No setting up of artificial structures to avoid Singapore tax	Same
(f)	The remitted income less incidental expenses must pass through to the S-REIT	Same
(g)	The Comptroller of Income Tax is satisfied that the above conditions are met	Same

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