



EPRA | REPORTING

European Public Real Estate Association

Global REIT Survey 2016

ASIA



Taiwan –REIT



A COMPARISON OF THE MAJOR REIT REGIMES AROUND THE WORLD

1 General introduction

	Enacted year	Citation	REIT/REAT type
Taiwan REIT/REAT.	Enacted in 2003 Last amended in 2015.	Real Estate Securitisation Act.	Trust type.

In Taiwan the Real Estate Securitisation Act (RESA) was enacted in 2003 and was last amended in 2015. 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*

Listing Country	Number of REITs	Number in EPRA REIT Index	Sector mkt cap (EUR€m)	% of Global REIT Index
Taiwan	5	0	€ 2.007	0.00%



*Market cap rebased in EUR and correct as at 29 July 2016. The Global REIT Index is the FTSE EPRA/NAREIT Global REITs Index. EPRA, August 2016.

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 Trust Enterprise Act,
- 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 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
<p>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 1/4 of the total value of the certificates issued.</p> <p>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 of the natural person, juristic person and the fund above shall not exceed 35 persons in number.</p>	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, 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 – except for independent professional investors.

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 of the natural person, juristic person and the fund above, 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); and the juristic person controls or is controlled by or is under common control with the juristic person shareholder.

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 (including the foreign real estate held via a foreign special purpose vehicle wholly owned by the REIT Trustee and solely for the purpose of investment in foreign real estate);
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 amount of the real estate to be developed and the related rights of real estate shall not be greater than 15% of the net worth of the publicly-offered REIT or 40% of the net worth of the privately-placed REIT.

The total investment amount in foreign REITs, together with other beneficial certificates issued pursuant to RESA and Financial Asset Securitisation Act shall not be greater than 25% of the net worth of the REIT.

The total investment amount in single foreign REIT shall not be greater than 5% of the net worth of the REIT.

The total investment amount in foreign real estate, together with foreign REITs, shall be less than 50% of the net worth of the REIT.

The total investment amount of cash (including bank deposits), government bond and items 1 to 3 above shall not be lower than 75% of the net worth of the REIT.

The total investment amount in the securities set forth under the Securities and Exchange Act shall not be greater than 40% of its offering limit and NT\$600 million, provided that the investment in item 3 above is not restricted.

The total investment in the short-term commercial paper of any company shall not be greater than 10% of the net worth of the REIT 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
50%

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 50% of the net worth of the REIT depending upon its credit rating.

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 28 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/REIT 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 if the tax withheld exceeds the payable amount

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 or the tenants are individuals. Withholding tax withheld may be recovered by the Trustee from the tax authority if the tax withheld exceeds the payable amount.

Other taxes

The Trustee is the taxpayer of land value tax imposed on the registered owner of property under Article 3-1 of the Land Tax Act.

3.2 Transition regulations

Conversion into REIT status
N/A

3.3 Registration duties

Registration duties
<ul style="list-style-type: none"> - 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
<ul style="list-style-type: none"> - The distribution shall be consolidated into gross corporate income since January 01, 2010. - Capital gains corporate tax-exempt, but subject to alternative minimum tax. 	<ul style="list-style-type: none"> - Withholding tax final levy on distributions. - Capital gains tax-exempt. 	<ul style="list-style-type: none"> - 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 12% with an exemption if AMT income does not exceed NT\$ 0.5 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.

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, unless otherwise provided by available tax treaties with specific jurisdictions.

5 Tax treatment of foreign REIT and its domestic unit holder

Foreign REIT	Corporate unit holder	Individual unit holder
<ul style="list-style-type: none"> - 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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