

# Alternative investment fund regime in IFSC at GIFT City





## IFSC in India at Gujarat International Finance Tec-City (GIFT City)

GIFT City has been built to attract global players to set up units in the international financial services center (IFSC). It also allows Indian financial institutions to establish a presence in the IFSC and provide financial services to overseas markets.

The city has been developed on a multi-service special economic zone (SEZ) and provides various direct and indirect tax benefits to financial institutions and overseas investors.

Some of the key benefits of setting up a unit in GIFT-IFSC are:

- Provides complete financial service ecosystem for cross-border transactions
- Aims to attract foreign capital through liberal tax and regulatory regime
- Helps domestic companies in the financial services sector to do cross-border business easily

The regulatory powers of the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), Insurance Regulatory and Development Authority of India (IRDAI) and Pension Fund Regulatory and Development Authority of India (PFRDA) have been vested in the International Financial Services Centres Authority (IFSCA). It regulates financial institutions, products, and services in IFSC at GIFT City, exercisable by IFSCA from 1 October 2020. Each unit to be set up in IFSC has to obtain an SEZ-IFSC unit licence in addition to a license from IFSCA.



## Alternative Investment Fund (AIF) in IFSC

In 2012, SEBI introduced AIF regulations for unregistered pooling vehicles. It aimed to avoid regulatory gaps and have a level playing field for all types of funds in India.

Considering the success of the AIF regime in the domestic market and to encourage a fund regime in IFSC, in 2015, SEBI had issued detailed guidelines to facilitate and regulate the securities market in India's first IFSC at the GIFT City. The said guidelines provided a broad framework for the setting up of AIF in IFSC.

Later in 2018, SEBI issued operating guidelines for AIFs in IFSC, providing a robust framework for setting up an AIF in IFSC, which will, in turn, provide a major boost to the fund industry.



## Typical structure of an AIF in IFSC

Typical structure of AIF will have the following participants:

- An AIF – set up in the form of trust/company/LLP/body corporate
- Settlor
- Trustee
- Sponsor
- Fund manager
- Investors

The AIF in IFSC can pool money from domestic and overseas investors (including NRIs).

An AIF in IFSC is permitted to make investments in securities listed on the IFSC, issued by companies incorporated in IFSC/India/foreign jurisdiction, units of other AIFs and other permissible investments as per SEBI (Alternative Investment Funds) Regulations, 2012.



## AIF in IFSC: Regulatory framework

### Parameters

#### Eligible sponsor/managers of an AIF in IFSC

- In case of a sponsor/manager of an existing AIF in India, they may act as a sponsor/manager of an AIF set-up in IFSC either:
  - By setting up a branch in the IFSC, or
  - By incorporating a company or LLP in the IFSC
- In other cases, sponsor/manager would be required to incorporate a company or LLP in the IFSC

#### Continuing interest by sponsor/manager

- **For Category I and II AIFs** – 2.5% of corpus or USD 0.75 million, whichever is lower
  - **For Category III AIFs** – 5% of the corpus or USD 1.5 million, whichever is lower
- Continuing interest in the AIF should not be through waiver of the management fees

#### Requirement to appoint custodian

- **For Category I and II AIFs** – custodian registered with SEBI is required to be appointed only if the corpus of that AIF set up in IFSC is more than USD 70 million
- **For Category III AIFs** – mandatory to appoint a custodian

#### Other provisions

- Form: Trust/company/LLP/body corporate
- Money accepted from eligible investors only in foreign currency
- Minimum corpus of each scheme - USD 3 million
- Minimum investment amount required – USD 150,000 (USD 40,000 in case investors are employees /directors of the Manager of such AIF)
- Available investment routes into India (onshore) - FDI, FPI, and FVCI







## Key benefits for AIF in IFSC



### Regulatory benefits

- Unlike domestic ones, AIFs in IFSC can borrow money or engage in leveraging activities without any limit, subject to certain conditions
- While domestic Category I and II AIFs are not allowed to invest more than 25% in one investee company and Category III AIF more than 10% in one investee company, such conditions are not applicable to AIFs in IFSC
- Possibility to invest outside India without any limits
- Possibility of co-investment through a segregated portfolio



### Tax benefits

- Favourable Category III AIF tax regime for NR investors with:
  - Exemption for capital gains on transfer of specified capital assets listed on the IFSC exchange, capital gains on derivatives and debt securities of India company and offshore securities
  - Reduced tax rate of 10% on dividends and interest
  - Exemption for 'upside income' from security receipts
- NR investors investing in Category I/II AIF exempted from filing a tax return and obtaining PAN in India subject to certain conditions
- Portfolio/AIF managers in IFSC – 10-year tax holiday
- Fund structures with 'substance' in IFSC to address POEM/PE/GAAR/MLI and other tax treaty challenges
- Relocation of the offshore fund to/wholly-owned SPV to a AIF (Resultant Fund) in IFSC to be tax neutral for offshore fund/wholly-owned SPV, resultant fund and its shareholders/unitholders
- NR investors of the resultant fund or resultant fund itself exempt on gains from the future sale if the offshore fund was otherwise exempt on such gains before relocation



### Other benefits

- Lower operating costs, in addition to other subsidies granted by the Gujarat government
- Availability of skilled resources
- Proximity to the onshore market
- World-class infrastructure, unparalleled connectivity and transportation access
- Access to multiple markets from IFSC and opportunity to become a part of a growing ecosystem supported by robust policy initiatives by the Government of India





## How can we help?

Structure the entity/  
capital from tax and  
regulatory perspective

Assist in incorporation of  
fund/manager entity in  
IFSC – GIFT City

Assist in obtaining  
approval from IFSCA  
and SEZ regulator for  
operating in IFSC –  
GIFT City

Assist in filing income  
tax and regulatory  
compliance and provide  
advisory services, as  
and when required to the  
entities in IFSC – GIFT  
City

Cater other consultancy  
services requirement  
such as due-diligence  
services, internal audit,  
IT consultancy

Assist in fund accounting  
and investor reporting

Provide FATCA/CRS services

## Why choose us?

- A dedicated tax team led by the Partners/Directors with vast and varied experience of providing focused services to the financial service sector
- Partner-led proactive, pragmatic, solution-oriented approach
- New ideation and updation upon a change in law and regulations by way of emails, webinars, alerts, flash news, etc.
- We have experience in providing end-to-end solutions to the AIFs

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