The world inside IFSC - GIFT City

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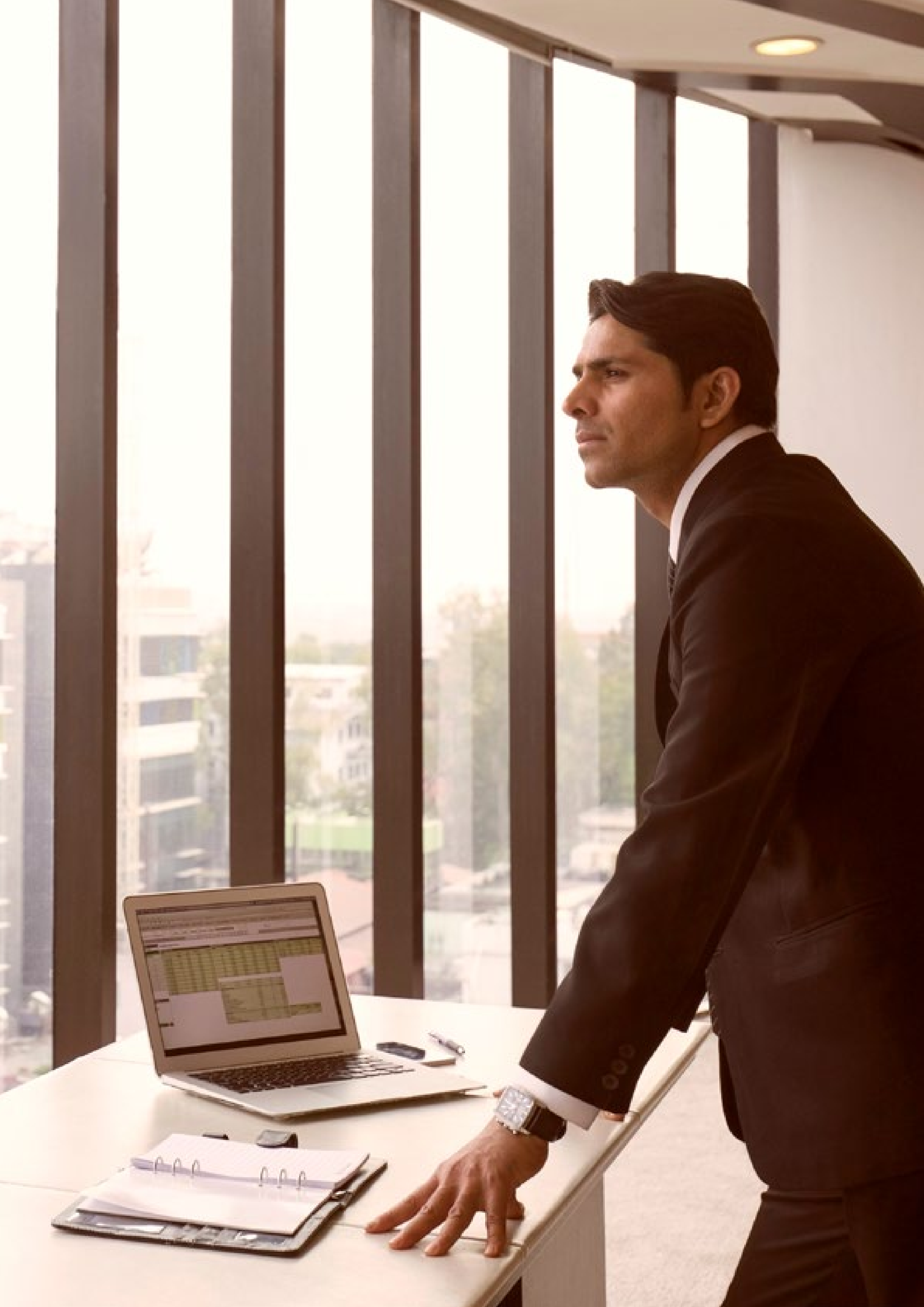

Foreword

The IFSC GIFT city aligns perfectly with the 'Vibrant Bharat' narrative, which is about positioning India as a global hub for business, investment, and technology

Dear Readers,

I am delighted to introduce this handbook on doing business in India's first International Financial Services Centre (IFSC) established in 2015 in GIFT City, Gandhinagar, Gujarat. The handbook provides a comprehensive understanding of the tax and regulatory regime in the IFSC, highlighting the benefits and opportunities available for businesses looking to invest in this emerging global financial hub.

Leveraging the country's abundant talent and resources, the IFSC is well-positioned to serve global financial markets in all time zones, including Hong Kong, London, and New York. Investing in the IFSC GIFT City has become even more attractive for offshore financial market investors on account of various direct and indirect tax benefits and a liberalised regulatory regime applicable for entities operating within the IFSC.

The concept of an IFSC was first conceived by the Government of India in the year 2007 based on the recommendations of a High-Powered Expert Committee headed by former World Bank economist Percy Mistry. The late Hon'ble Finance Minister Mr. Arun Jaitley, while presenting the Union Budget for the year 2015-16, and recognising that India produces some of the finest financial minds, announced the establishment of India's first IFSC in Gujarat's GIFT City. Since then, the Indian government has demonstrated unwavering support for the success of IFSC GIFT City. To this end, the government has announced various tax and regulatory measures and other initiatives to create a tax-friendly and compliant regulatory framework, aimed at 'onshoring the offshore' financial services activity in IFSC GIFT City

The IFSC is not just about creating a financial centre; it is also about building an ecosystem that promotes innovation, entrepreneurship, and collaboration. It aligns perfectly with the **'Vibrant Bharat'** narrative which is about positioning India as a global hub for business, investment, and technology. The IFSC is an integral part of this vision, offering a platform for Indian businesses to connect with global markets and access cutting-edge financial services, while also providing foreign businesses with an opportunity to establish a presence in India and tap into its potential.

IFSC GIFT City's strategic location on the Delhi-Mumbai Industrial Corridor (DMIC) route, along with its smart city infrastructure, unified regulator, and high-priority status as a government project, makes it an attractive investment destination for financial service providers. In addition to its tax benefits and flexible regulatory regime, the IFSC GIFT City has seen a significant increase in permissible activities, players, and volume of activities over the past few years. Today, many banks, funds, financial intermediaries, insurance companies, ancillary services players, fintech entities, bullion players, aircraft leasing companies, fund managers, and more have established their presence and begun their operations in IFSC GIFT City.

The handbook provides an overview of the rationale for setting up an IFSC in India, exchange control regulations, tax regime, exemptions, and IFSCA's role in regulating financial institutions. It aims to help businesses gain a complete understanding of all aspects before investing in or operating from IFSC GIFT City, and discusses the challenges and opportunities that lie ahead for India as a global financial hub.

I hope that, as readers, you will find this handbook insightful and valuable for IFSC GIFT City-related business activities.

With warm regards

Deepankar Sanwalka
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I. About International Financial Services Centre (IFSC) in GIFT City

An International Financial Centre (IFC) is a centre that facilitates international activities and operates under a regulatory framework that meets international norms. An IFC caters to customers outside the jurisdiction of the domestic economy and deals with flows of finance, financial products and services across borders. Considering the uniqueness of India's geographical location, size of the economy, increasing international trade, the abundance of talent and the need for faster economic development, the government of India decided to set up India's first IFC in Gujarat International Finance Tec-City (GIFT City) in Gandhinagar, Gujarat.

In India, the IFSC GIFT City has been approved by the government of India under the Special Economic Zones Act 2005. Activities carried out in an IFSC extend across the entire financial services spectrum, including banking, capital markets, insurance, global in-house centres (GICs), asset management and other sectors through respective regulations enabled by the financial services regulator from time to time.

GIFT City is spread across 3.6 million square metres in Gandhinagar, the capital city of Gujarat, and consists of a multi-service special economic zone (SEZ) and an exclusive domestic tariff area (DTA). The GIFT SEZ has been set up in accordance with the Special Economic Zones Act 2005, Special Economic Zones Rules 2006 and the regulations made thereunder. The total area of 1.05 million square metres has been demarcated as an SEZ, and an additional 2.52 million square metres has been marked as DTA with commercial office space, social infrastructure such as schools, medical facilities, indoor and outdoor sports facilities, leisure zones, multi-cuisine restaurants and a 5-Star hotel. The infrastructure developed in GIFT City, such as the district cooling system (DCS), automated waste collection system (AWCS), water treatment plant and underground utility tunnel, contribute to making the city a leading smart city.

Rationale for setting up an IFSC in India

In comparison to existing and emerging financial centres globally, India has numerous competitive advantages. India's geostrategic location facilitates serving all time zones, including major financial markets like Hong Kong, London, New York, etc. It has a large pool of talented professionals and professional service providers with huge and diversified demography. India is also emerging as a leading technology innovation hub, given the fintech boom being witnessed over the last few years in India. In addition, India is currently growing faster than most of the larger economies, and several cross-border transactions are happening amongst global and Indian MNCs pertaining to India.

Applicability of exchange control regulations

In March 2015, the RBI enacted the FEMA (IFSC) Regulations which are applicable to financial institutions and branches of financial institutions set up in an IFSC. As per the said regulations, such entities are treated as persons residing outside India and are required to conduct business in a foreign currency other than Indian Rupees (INR), whether with a resident or otherwise. However, the RBI may allow such financial institutions or branches of financial institutions, through specific or general permission, to conduct business in Indian Rupees, whether with a resident or otherwise.

Applicability of the Companies Act 2013

The Ministry of Corporate Affairs, vide the Notifications dated 4 January 2017, has granted various relaxations and exemptions under the Companies Act 2013 to companies licenced t o operate in an IFSC. Such relaxations and exemptions to IFSC companies have been granted to enhance the ease of doing business in an IFSC. The said notifications inter-alia also set out the below mentioned requirements for IFSC companies:

- At all times, the specified IFSC company is to have its registered office at the IFSC located in an approved multi-services SEZ, where it is licenced to operate.
- The suffix 'International Financial Services Centre' or 'IFSC' is to be used as a part of the name of the respective company.
- The formation of a company is to be with the objective of performing financial services activities as permitted under the SEZ Act and rules thereof.
- The formation of a company is to be limited by shares.

Further, the following are the key exemptions provided under the Companies Act for IFSC companies:

- Provisions relating to CSR will be applicable after five years from the commencement of business of a specified IFSC company.
- There are exemptions from constituting an audit committee and nomination and remuneration committee, and stakeholders' relationship committee.
- The timelines for submitting the various forms and returns under the Companies Act 2013 have been relaxed from the prescribed timelines.

Dispute resolution mechanism in IFSC

With increasing participation by international and domestic parties in IFSC GIFT City, an international dispute resolution mechanism is required for developing the IFSC GIFT City as a global financial hub. Considering this and with the aim to provide a neutral and independent dispute resolution platform to parties, GIFT City has tied up with Singapore International Arbitration Centre (SIAC), which has opened its office in the IFSC GIFT City. Accordingly, entities in the IFSC GIFT City are permitted to choose SIAC arbitration for any dispute resolution purposes. Under this arrangement, while case management is handled by the SIAC in Singapore, the IFSC GIFT City is the venue of the hearing, and thus, parties may not be required to visit Singapore for such proceedings. It may be noted that vide Union Budget 2023, it is proposed to amend the IFSCA Act for statutory provisions relating to arbitration.

II. About International Financial Services Centre Authority (IFSCA)

The government of India established International Financial Services Centres Authority in April 2020 under the International Financial Services Centres Authority Act, 2019, passed by the Indian Parliament.

IFSCA has regulatory oversight over all financial institutions incorporated in the IFSC, and it has been vested with the powers of four sectoral regulators, viz. the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), Insurance Regulatory Development Authority of India (IRDAI) and Pension Fund Regulatory Development Authority of India (PFRDAI). For the first time, the regulatory powers of four financial services regulators in India have been vested in a single authority, i.e., IFSCA. The IFSCA is designated with the responsibility for developing and prescribing regulations for all the financial institutions in IFSC GIFT City, making it a unified regulator for the IFSC. The composition of the IFSCA is as under:

Sr No.	Composition
1	Chairperson appointed by the government of India (GOI)
2	An ex-officio member each nominated by SEBI, RBI, IRDAI and PFRDA
3	Two ex-officio members nominated by GOI from amongst the officials of the Ministry dealing with Finance
4	Two other members appointed by GOI on the recommendation of a selection committee

Approved by the government of India as an International Financial Services Centre (IFSC) at GIFT City, the IFSC reinforces India's strategic position as a global hub for financial services.

The provision of financial services comes with several regulatory limitations that may have an impact on the ease of doing business and the overall economic growth and development in the country. With new regulations emerging in IFSCs and the establishment of the new regulator, the focus is now on creating a light-touch regulatory model to promote innovation and growth through the sophistication of financial services.

IFSCA has to date issued various regulations, frameworks and guidelines, enabling financial service activities in an IFSC. The IFSCA-authorised entities can operate under the respective regulations/frameworks from the IFSC GIFT City for doing cross-border business relating to financial products or services with their Indian (subject to the relevant IFSCA regulations) as well as overseas clients/businesses.

Following is the list of key regulations and frameworks issued by the IFSCA over the last few years:

IFSCA (Banking) Regulations 2020
IFSCA (Bullion Exchange) Regulations 2020
IFSCA (Global In-house Centres) Regulations 2020
IFSCA (Issuance and Listing of Securities) Regulations 2021
IFSCA (Finance Company) Regulations 2021
IFSCA (Market Infrastructure Institutions) Regulations 2021
IFSCA (Capital Market Intermediaries) Regulations 2021
IFSCA (Registration of Insurance Business) Regulations 2021
IFSCA (Fund Management) Regulations 2022
Framework for enabling Ancillary Services at IFSC 2021
Framework for undertaking Global/Regional Corporate Treasury Centres Activities by Finance Company/Finance Unit in IFSC 2021
Framework for Aircraft leasing under the Finance Company Regulations 2022
Framework for Ship Leasing under the Finance Company Regulations 2022
Framework for Fintech Entity in the IFSCs 2022

The IFSC at GIFT City provides an unprecedented opportunity to global investors to set up businesses in the areas of banking, investments (especially green finance and social impact capital), insurance and reinsurance, capital market and asset management. It is poised to emerge as a leading financial service-related business jurisdiction and as a global hub for fintech start-ups.

The IFSCA enables registered entities, including branches wherever permitted, to operate, innovate and succeed, facilitated by an internationally comparable regulatory framework under a special offshore status within India.

III. Banking sector in IFSC

Background

The role of the banking sector in the growth and economic performance of a country has always been very critical. Given this, the Indian Banking system is highly regulated, and the pervasiveness of the Reserve Bank of India (RBI) is evident in every aspect of banking. The present Indian banking system under RBI caters mainly to domestic businesses and transactions, but with the increase in globalisation by various businesses and ever-increasing cross-border transactions by Indian businesses, there is a growing need to allow banks to conduct such businesses from India. The idea of allowing banking activities in IFSCs is to onshore most of the cross-border financial service transactions that are presently being carried offshore.

Given the said need, the concept of 'international banking units' was initially introduced by RBI, and a few years back, the IFSC Banking Regulations were issued by the RBI. After the set-up of IFSCA, it is now the regulatory authority for the financial institutions, including banking units (BU) set up in an IFSC. Accordingly, banks are now required to obtain a licence from IFSCA for setting up IFSC Banking Units (IBUs) in the IFSC GIFT City.

Regulatory framework for the banking units in IFSC

Who can set up a banking unit?

- Indian banks[1] and foreign banks[2] having a presence in India can set up a banking unit in an IFSC.
- Foreign banks not having a presence in India and wholly-owned subsidiaries (WOS) of foreign banks incorporated in India are also permitted to set up a banking unit (BU) in an IFSC.

Registration/licence requirements

For granting a licence/setting up an IBU in the IFSC GIFT City, the following are the key consideration points:

- The parent bank[3] shall provide necessary regulatory capital subject to a minimum of USD 20 million (base capital requirement) and also undertake to provide liquidity for the operations of the IBU. The minimum capital can be maintained at the parent bank level.
- The parent bank is required to obtain a no-objection letter from its home regulator[4] for setting up an IBU in the IFSC GIFT City.
- The parent bank is permitted to establish only one banking unit as a branch in each IFSC.
- The banking company is required to comply with the prudential directions and instructions issued by the home regulator and ensure that the IBU has access to the parent bank's liquid assets and financial resources, which are adequate in relation to the nature, size and complexity of the business of the IBU.
- IBUs are required to follow Know Your Customer (KYC) norms, combating the financing of terrorism and other anti-money laundering requirements, including reporting requirements issued by the Reserve Bank from time to time unless otherwise specified by the IFSCA.

The IFSCA has provided the following prudential requirements, which are applicable to the IBUs in the IFSC GIFT City:

- IBUs are not required to maintain the statutory liquidity ratio (SLR) or cash reserve ratio (CRR) specified by the RBI.
- IBUs are required to maintain the liquidity coverage ratio (LCR) and net stable funding ratio (NSFR) at the branch level. However, the same may be maintained at the parent bank level with the permission of the IFSCA.

1. 'Indian bank' means any bank incorporated or established under any act and includes a wholly-owned subsidiary of a foreign bank incorporated in India but does not include a co-operative bank.
2. 'Foreign bank' means a banking company incorporated or established outside of India.
3. 'Parent bank' means a foreign bank as defined under sub-regulation (d) or an Indian bank as defined under sub-regulation (f), or both, as the case may be, that intends to or has set up a banking unit.
4. 'Home regulator' means the regulatory authority that is responsible for regulating the parent bank in the jurisdiction where the parent bank is incorporated, licenced or established.

- Leverage ratio (LR) for IBUs may be maintained at the parent bank level and subject to the regulations specified by the respective home regulator applicable to the parent bank unless otherwise specified by the IFSCA.
- IBUs are required to maintain a retail deposit reserve ratio (RDRR) on a daily basis at 3% of the deposits raised from individuals outstanding as of the end of the previous working day.

Permissible activities

Banking units can undertake any or all of the activities mentioned under clause (e) of Section 3(1) of the IFSCA Act or Section 6 of the Banking Regulation Act, 1949, except those expressly prohibited by the Authority.

The broad categories of permissible activities are summarised as follows:

- **Commercial banking** – This includes acceptance of deposits, borrowing and lending within banking units, retail and corporate lending, external commercial borrowing (ECB) and trade finance, equipment leasing and hire purchase business, factoring and forfaiting services and undertaking negotiation of letters of credit (LC) of its constituents.
- **Private banking** – It includes structured deposits, distributors of financial products, investment advisory services, etc.
- **Capital market division** – It includes issuing over-the-counter (OTC) derivative contracts, entering into non-deliverable forward contracts, acting as a trading and clearing member of stock exchanges, undertaking money market operations, operating as a foreign portfolio investor (FPI), investing in securities issued outside an IFSC (other than Indian securities), Bullion trading members and clearing members in GIFT-IFSC and operating as an investment banker.
- **Other services** – These involve acting as a foreign exchange prime broker, underwriting the subscription of funds, acting as the custodian of securities, acting as a portfolio manager, merchant banking services, undertaking foreign exchange transactions, etc.

Our comments

Considering the relatively flexible regulatory regime, foreign and Indian banks are finding IFSCs to be a great opportunity to serve cross-border operations of Indian and global clients. In addition, the IFSC GIFT City provides a lot of direct and indirect tax exemptions to banks operating within it. Further, due to regulatory flexibility, the IBUs can provide new products such as non-deliverable forwards (NDFs), aircraft leasing and financing, investing in India as FPI and participating in International Bullion Exchange operations, which otherwise cannot be undertaken from India.

Given the aforesaid benefits and the regulatory flexibility being provided by the banking regulations in the IFSC GIFT City, it would be beneficial for the banks having international operations to set up a unit in the IFSC GIFT City to tap the vast business opportunities available, especially in a fast-growing country like India.

Against this backdrop, IFSCs have seen significant growth in banking activity, especially over the last two years. The key banking activities undertaken by the IBUs include external commercial borrowings, foreign currency term loans, trade finance, non-deliverable forward (NDF), etc.

Expert comment

"Several banks (including Indian and global banks) have established IFSC Banking Units (IBUs). With various new global products/solutions, which are proposed to be introduced in the IFSC GIFT City, it will not be a surprise that most large global banks would be present in the IFSC GIFT City sooner or later such that they remain competitive in the Indian/regional market."

Amit Kedia
Chartered Accountant
Mumbai

IV. Global Administrative Office (GAO)

Background

IFSCA vide IFSCA (Banking) (Amendment) Regulations, 2022, has introduced a Global Administrative Office (GAO) framework for a banking company incorporated in India or outside India to set up GAO as a branch mode in the IFSC GIFT City. As a concept, in addition to being a service/support service unit to the group's banking activity, GAO can also act as a communication channel between the parent company and its customers.

What is a GAO as per the IFSCA (Banking) regulations?

A Global Administrative Office (GAO) is a financial institution set up in an IFSC by a banking company that manages, administers or coordinates the operations of the parent bank[5] or any of the group entities and provides support services to the parent bank or any of the group entities[6] for the execution of the permitted activities inside or outside IFSC.

Key regulatory framework

The key highlights of the framework are as follows:

Who can set up a GAO?

- A banking company incorporated in India or outside India is permitted to set up a GAO in an IFSC as a branch.
- A banking company incorporated in India or outside India and having IBU or RO in an IFSC can also set up a GAO.

Permissible activities

The GAO is allowed to undertake the following activities:

- Managing, administering or coordinating the operations of the parent bank or any of the group entities either inside or outside an IFSC
- Providing support services[7] to the parent bank or any of the group entities for the execution of the permitted activities either in an IFSC or outside it.

Key considerations

- The entity (a banking company) desirous of registering as GAO can make an application to the Authority.
- The GAO shall be located in an IFSC.
- The 'Head of GAO' shall be responsible for the activities of the GAO carried on from an IFSC, and they will be a resident in India and will carry out all functions of the GAO from an IFSC.
- The GAO is not permitted to book any banking or trading transaction on account of the banking company or on behalf of the banking company.

Our comments

The GAO framework allows banks to render various support services to their parent bank as well as carry out activities such as new product development, market research, marketing, development, etc., on behalf of the parent bank. These kinds of activities are not permitted to be carried out by banks regulated by the RBI in India. Thus, these regulations open up a new avenue of business activities to be carried out by banks from the IFSC GIFT City. The GAO is a unique proposition, especially for foreign banking companies looking to set up offshore branches/units with minimal cost and investment in an offshore jurisdiction for carrying out the aforesaid activities.

5. 'Parent bank' means a foreign bank or an Indian bank, as defined under these regulations or both, that intends to or has set up a banking unit, representative office, or regional administrative office.

6. 'Group entities' mean any holding company, subsidiaries, branches or any other entity, in whatever legal form, through which the parent bank undertakes its operations or permitted activities.

7. 'Support services' means the ancillary activities and processes required for the execution of the permitted activities.

V. Finance company in IFSC

Background

Globally, there are various jurisdictions where large private equity (PE) funds, multi-national conglomerates and non-bank groups set up offshore entities to act either as a holding company or to carry on lending/investing activities. Over the last few decades, it has been observed that non-bank entities play a pivotal role in providing finance and other financial support services to various businesses, and they also play a vital role in the growth and development of any financial centre.

Considering their significance and in order to promote such business activities, the IFSCA notified the International Financial Services Centre Authority (Finance Company) Regulations, 2021 (FC Regulations), on 25 March 2021.

The FC Regulations have been drafted to enable global financial services companies to set up holding companies, carry out investing/lending activities, undertake global treasury operations and provide various financial services from the IFSC GIFT City.

Regulatory framework for the finance company

What is a finance company?

A finance company is a financial institution separately incorporated to deal in one or more of the permissible activities in an IFSC without accepting deposits from the public and not registered as a banking unit with the IFSCA.

Registration and form of setup

- A finance company can be set up as a subsidiary, joint venture, newly-incorporated company or in any other form as specified by IFSCA.
- For undertaking one or more non-core activities, a finance company can also be set up in the form of a limited liability partnership (LLP) or trust.
- In the case of the finance unit, it can be set up as a branch under these regulations. Further, a finance unit can be set up for undertaking core activities, provided the applicant is an incorporated entity and is engaged in the business of financial services duly regulated by a financial sector regulator in its home jurisdiction.

Permissible activities

Permissible activities are divided into two categories as follows:

Core activities

1. Lending in the form of loans, commitments and guarantees, credit enhancement, securitisation, financial lease and sale and purchase of portfolios
2. Factoring and forfaiting of receivables
3. Undertaking investments, including subscribing, acquiring, holding or transferring securities or such other instruments as may be permitted by the Authority
4. Buying or selling derivatives
5. Global/Regional Corporate Treasury Centres
6. Any other core activity as may be permitted by the IFSCA.

Non-core activities

Non-core activities include merchant banking, registrar and share transfer agent, investment advisory services, portfolio management services, operating lease of any products, including aircraft lease, ship lease or any other specified equipment, International Trade Financing Services Platform, distribution of financial products (including mutual fund units and insurance products), etc.

Prudential requirements

The finance company/finance unit registered with the IFSCA is required to comply with prudential norms as stated below:

- Maintain a minimum capital ratio of 8% of its regulatory capital to risk-weighted assets or such percentage as specified by the IFSCA.
- Maintain liquidity coverage ratio (LCR) on a stand-alone basis at all times as determined by the IFSCA; for the finance unit, the parent entity may be allowed to maintain the LCR after obtaining the specific approval of the IFSCA.
- Maintain exposure ceiling: The sum of all exposures to a single counterparty or group of connected counterparties shall not exceed 25% of the available eligible capital base without the approval of the Authority.

Minimum owned capital

Nature of activities	Minimum owned fund requirement (in USD or equivalent amount in any other freely convertible currency)
One or more of the non-core activities only – without any core activities	(1) Higher of USD 0.2 million or any such amount as may be required to seek specific registration for a proposed non-core activity under the respective framework/regulation for that particular activity; or (2) Any higher amount as may be specified by the IFSCA
One or more core activities with or without non-core activities, except for the Global/Regional Corporate Treasury Centre	(1) Higher of USD 3 million, minimum regulatory capital for core activities as specified by the IFSCA; or any such amount as may be required for non-core activities under the respective framework/ regulation for that particular activity; or (2) Any higher amount as may be specified by the IFSCA
For Global/Regional Corporate Treasury Centres	Higher of USD 0.2 million or any such amount as may be required under the relevant regulatory framework specified by the IFSCA

The owned fund for a finance company refers to the paid-up capital and free reserves balance in the share premium account and capital reserves representing surplus arising out of sale proceeds of an asset, excluding reserves created by the revaluation of an asset, as reduced by accumulated loss balance, the book value of intangible assets and deferred revenue expenditure, if any.

Our comments

Finance company (FC) regulations provide ample opportunities for domestic and foreign non-banking financial entities to set up operations in the IFSC GIFT City. The wide range of financial services-related activities that can be undertaken by the finance companies, coupled with the tax benefits and lower operational costs in the IFSC GIFT City, will pave a path for various businesses to serve domestic and overseas customers, which otherwise may not be available in Indian jurisdiction.

Under these regulations, the IFSCA has allowed the setting up of Global/Regional Corporate Treasury Centres in the IFSC GIFT City, which will create plenty of opportunities for Indian and global MNCs to centralise their treasury operations for availing inter-corporate financing and for effective liquidity management amongst them. Further, the FC regulations provide a lucrative opportunity for setting up a holding company structure and also provide a host of financial services across geography under a single entity structure. Thus, this makes FC regulations an attractive proposition for carrying out a variety of financial services businesses under one single entity.

VI. Global In-house Centre (GIC)

Background

GICs are service delivery operations typically in low-cost jurisdictions and serve as offshore back-end processing centres for the parent company. A GIC provides varied services, which include customer onboarding/servicing, security and trade reconciliation, account setup and maintenance, risk and compliance screening, enquiries and transaction processing, as well as end-to-end sensitive processes, such as credit and decision analytics, financial risk management and anti-money laundering.

The choice of jurisdiction for setting up a GIC is driven by various factors such as talent pool, infrastructure, regulatory environment and tax incentives available to them. Given the available financial and technological infrastructure in an IFSC and its potential to become a centre for high-end data processing, in November 2020, the IFSCA notified the IFSCA (Global In-house Centres) Regulations, 2020 (GIC Regulations). These regulations provide a detailed framework for recognising and operationalising a GIC in the IFSC GIFT City.

What are GIC and permissible activities?

As per the IFSC GIC Regulations, a GIC is a unit set up in an IFSC for providing support services, directly or indirectly, to entities within its financial services group, including, but not limited to, banks, non-banking financial companies, financial intermediaries, investment banks, insurance companies, reinsurance companies, actuaries, brokerage firms, funds, stock exchanges, clearing houses, depositories and custodians, for carrying out a financial service in respect of a financial product. A global in-house centre shall provide services to non-resident entities only.

Who can set up a GIC?

An entity belonging to a financial services group can set up a GIC in an IFSC and shall be required to meet the following eligibility criteria laid down by the IFSCA:

- The GIC shall exclusively provide support services to its financial services group[8], which must be an entity located in a Financial Action Task Force (FATF)-compliant jurisdiction.
- Such support services should be provided for the purpose of carrying out a financial service in respect of a financial product.

Key consideration points to set up a GIC in IFSC:

Mode of conducting business	A GIC can be set up as a company, an LLP, a branch or any other form of entity.
Approval required	Approval is required from the IFSC Authority under GIC Regulations and from the Development Commissioner SEZ under the SEZ Act 2005.
Relocation of employees	New employees will need to be hired in the GIC. Relocation of employees from Indian entities is not allowed, subject to an exception: Only supervisory personnel are permitted to be transferred from the existing entity - subject to a maximum of 20% of such personnel to the GIC with prior approval of the IFSCA.
Currency	To deal in freely convertible foreign currency only. GIC is permitted to defray its administrative expenses in INR by maintaining an INR account.
Minimum capital requirement	There is no minimum capital requirement prescribed for GIC.

Our comments

The GIC regulations allow multinational entities to set up their offshore support entities in the IFSC GIFT City and extend several operational and tax advantages available to the units registered therein. A GIC set up in an IFSC is also eligible for benefits provided by the government of Gujarat under the Gujarat IT/ITeS Policy (2022-27).

Given the well-regulated ecosystem backed by developing physical infrastructure, a GIC set up in the IFSC GIFT City provides the global financial services group with an opportunity to maximise its scale of core operations while ensuring access to reliable support services at a relatively better cost in comparison to outsourcing such services to third parties in their home jurisdiction.

8. 'Financial services group' means any entity, which is regulated by a financial services regulator or any other competent body regulating financial services activities in its home jurisdiction and includes its holding, subsidiary or associate companies, branch or subsidiary of a holding company to which it is also a subsidiary.

VII. Capital Market Intermediaries (CMIs) - IFSC

Background

Intermediaries play an important role by acting as a facilitator between their clients and the regulator for various regulated financial products and financial services. They are also essential for building the ecosystem in any jurisdiction that aims to become a key player in the capital market domain. The IFSCA (Capital Market Intermediaries) Regulations, 2021 (Intermediaries Regulations), have been enacted focusing on ease of doing business and consistent with the fundamental principles laid down by the International Organization of Securities Commissions.

Capital market intermediaries who can function in the IFSC ecosystem can be broker-dealers, clearing members, depository participants, investment bankers, portfolio managers, investment advisers, custodians, credit rating agencies, debenture trustees, account aggregators, etc.

IFSCs also have two internationally recognised stock exchanges (RSEs), namely the India International Exchange (IFSC) Limited (India INX) and NSE IFSC Ltd. The RSEs are regulated by the IFSC Authority, and they offer investors longer trading hours in a range of financial market products such as index and single stock derivatives, commodity derivatives, currency derivatives, debt securities, etc.

The IFSCA notified IFSCA (Capital Market Intermediaries) Regulations, 2021 (CMI Regulations), on 18 October 2021. These regulations supersede the earlier SEBI (IFSC) guidelines, 2015, and other specific regulations issued from time to time as referred under the CMI Regulations. The regulations, inter alia, provide for regulatory requirements with respect to registration, net worth, obligations, responsibilities, etc.

The RSEs are regulated by the IFSC Authority, and they offer investors longer trading hours in a range of financial market products.

Coverage of intermediaries:

The following categories of intermediaries are required to obtain a certificate of registration from the IFSCA prior to the commencement of operations in an IFSC for providing financial services:

- **Broker-dealers**
- **Clearing members**
- **Depository participants**
- **Investment bankers**
- **Investment advisors**
- **Custodian**
- **Credit rating agency**
- **Debenture trustee**
- **Account aggregator**

What are the registration requirements?

Application

1. To obtain registration as a capital market intermediary (CMI) in an IFSC, an application is to be submitted to IFSCA in a prescribed format, along with the application fee.
2. An applicant seeking registration to act as a broker-dealer, clearing member or depository participant shall make an application to IFSCA, along with additional information required through the recognised stock exchange (RSE), recognised clearing corporation or recognised depository.

Legal form of the applicant

1. An applicant seeking registration with the IFSCA shall be required to be present in an IFSC by establishing a branch or forming a company, limited liability partnership, body corporate, partnership firm, proprietorship firm or any other form as may be permitted by the IFSCA.
2. A CMI operating as a branch structure in an IFSC shall comply with the following conditions:
   - The entity shall adequately ring-fence the operations of the branch in an IFSC.
   - The entity shall maintain a minimum net worth for its activities in an IFSC, separately and in addition to the minimum net worth applicable for other activities outside an IFSC, and the net-worth requirement may be maintained at the parent level.
   - The entity shall maintain minimum capital as may be specified by the IFSCA, which shall be earmarked for an IFSC and may be held in the jurisdiction of its incorporation.

Below are the key features and regulatory requirements of the CMI regulations applicable to respective intermediaries:

Broker-dealers

- A broker-dealer has been defined as a person having trading rights in any recognised stock exchange (RSE) and includes a trading member.
- A broker-dealer can have the following categories as clients:
  - A person resident outside India
  - A non-resident Indian
  - A non-individual resident in India who is eligible under the Foreign Exchange Management Act (FEMA) to invest funds offshore to the extent of outward investment permitted
  - An individual resident in India who is eligible under FEMA to invest funds offshore to the extent allowed in the Liberalised Remittance Scheme (LRS) of the Reserve Bank of India (RBI)
- Net-worth requirement
  - Indian entity (including IFSC) – as specified by the RSE
  - Foreign entity – as specified by the RSE but subject to a minimum of USD 0.135 million

Clearing member

- A clearing member is defined as a person having clearing and settlement rights in any recognised clearing corporation.
- Net-worth requirement
  - Indian entity (including IFSC) – as specified by the recognised clearing corporation
  - Foreign entity – as specified by the recognised clearing corporation, subject to a minimum of USD 1.35 million for a clearing member and USD 0.675 million for a self-clearing member
- A clearing member may have the same categories of clients as discussed above for broker-dealers.

Depository participants

- A depository participant is defined as a participant of a recognised depository.
- Net-worth requirement – as specified by the depository
- A depository participant may have the same categories as clients, as discussed above for broker-dealers.

Investment bankers

- An investment banker is defined as a person who is engaged in the business of issue management either by making arrangements regarding selling, buying or subscribing to securities or acting as manager, consultant, adviser or rendering corporate advisory service in relation to such issue management.
- Net-worth requirement
  - Indian entity (including IFSC) – USD 0.75 million
  - Foreign entity – USD 1.5 million
- An investment banker may act as an underwriter of an issue in an IFSC subject to prescribed conditions.
- An investment banker shall not undertake any activity, except for marketing of the issue or offer, if the investment banker is a promoter or an associate of the issuer of securities or of any person making an offer to sell or purchase securities in terms of any regulations made by the IFSCA.

Custodian

- A custodian is defined as a person who carries on or proposes to carry on the business of providing custodial services.
- Custodian services include:
  - Maintaining accounts for such financial products
  - Collecting the benefits or rights accruing to the client in respect of such financial products
  - Keeping the client informed of the actions taken or to be taken by the issuer, having a bearing on the benefits or rights accruing to the client
  - Maintaining and reconciling records of the services
  - Undertaking activities relating to the issuance of depository receipts in an IFSC
- Net-worth requirement:
  - Indian entity (including IFSC) – USD 7 million
  - Foreign entity – as specified by the authority

Investment advisors

- An investment advisor is defined as a person who, for consideration, is engaged in the business of providing investment advice to clients or other persons or groups of persons and includes any person who holds out themselves as an investment advisor, by whatever name called.
- An investment advisor may have the same categories of clients as discussed above for broker-dealers.
- An investment advisor shall disclose to a prospective client all material information about themselves, including their business, disciplinary history, the terms and conditions on which they offer advisory services, affiliations with other intermediaries and such other information so as to enable the client to take an informed decision on whether or not to avail their advisory services and shall act in a fiduciary capacity by disclosing all the conflicts of interest (as and when they arise).
- An investment advisor must maintain an arm's length relationship between their activities as an investment advisor and other activities.
- An investment advisor shall not act on their own account, knowingly sell securities or investment products to or purchase securities or investment products from a client.
- An individual investment advisor shall not provide any distribution services.
- Net-worth requirement:
  - Indian entity (including IFSC) – USD 0.5 million
  - Foreign entity – USD 1 million

Credit rating agency

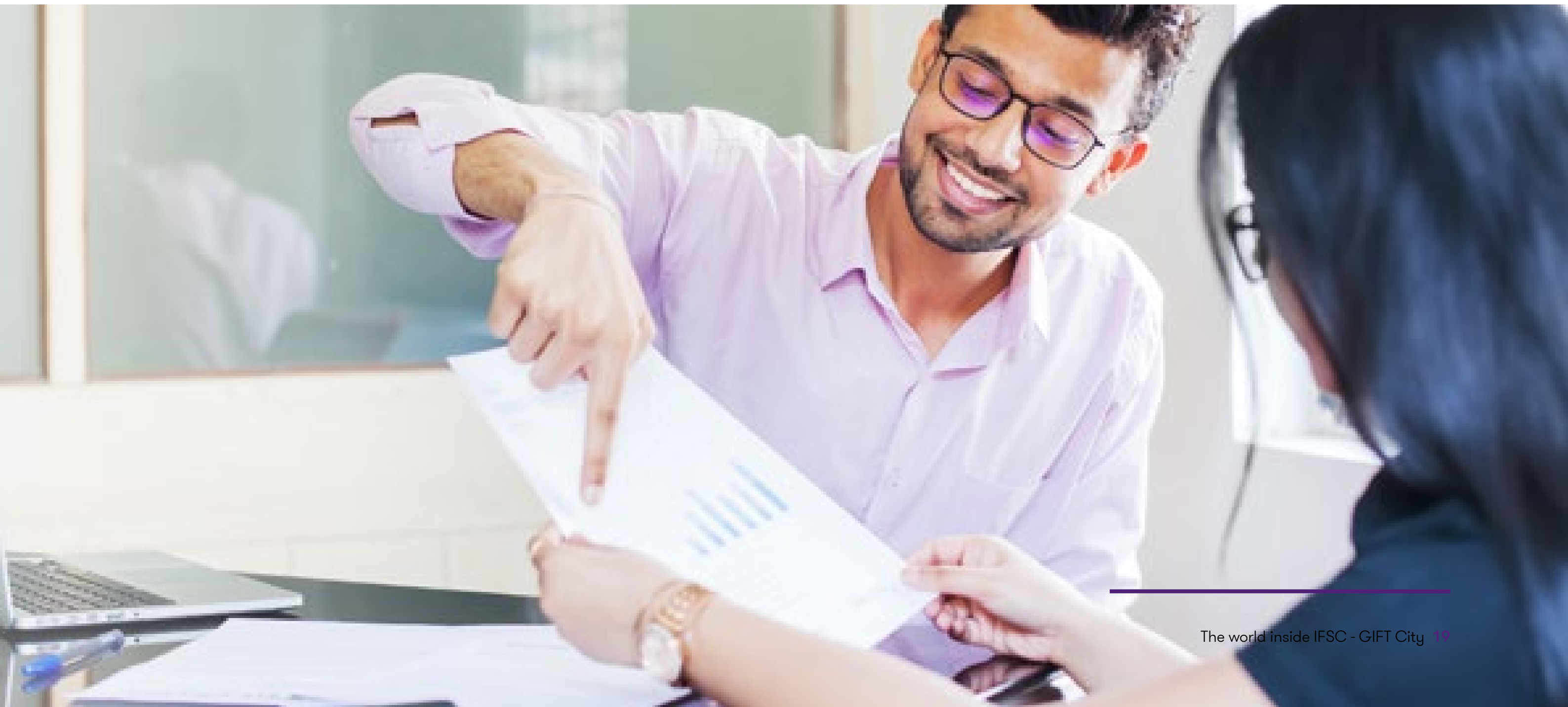
- A credit rating agency is defined as a person who is engaged in the rating of securities or financial products or such other products as may be introduced by the Authority from time to time.
- Net-worth requirement:
  - Indian entity (Including IFSC) – USD 3 million
  - Foreign entity – USD 6 million

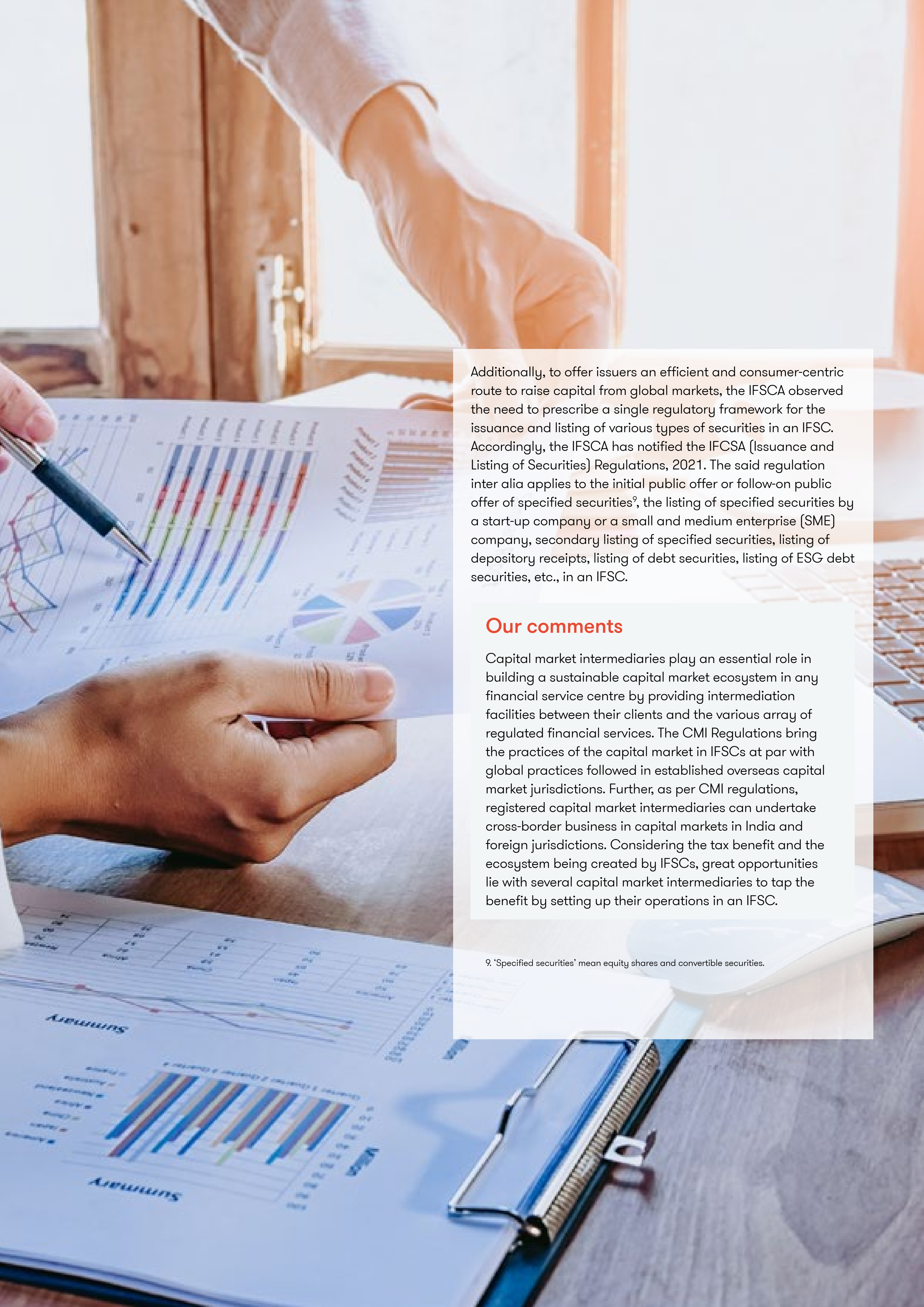
Debenture trustee

- A debenture trustee is defined as a trustee appointed in respect of any issue of debentures.
- A person shall not be appointed as a debenture trustee in cases where the debenture trustee is an associate of the issuer or is likely to have a conflict of interest in any manner other than as remuneration to the debenture trustee.
- A debenture trustee is not allowed to relinquish their assignment as a debenture trustee until another debenture trustee has been appointed by the issuer.
- Net-worth requirement:
  - Indian entity (including IFSC) – USD 1.5 million
  - Foreign entity – USD 3 million

Account aggregator

- An account aggregator is defined as a person who undertakes the business of providing the service of retrieving or collecting information of their customer pertaining to financial assets and consolidating, organising and presenting such information to the customer or any other person as per the instructions of the customer.
- Net-worth requirement
  - Indian entity (including IFSC) – USD 0.5 million
  - Foreign entity – USD 1 million





Additionally, to offer issuers an efficient and consumer-centric route to raise capital from global markets, the IFSCA observed the need to prescribe a single regulatory framework for the issuance and listing of various types of securities in an IFSC. Accordingly, the IFSCA has notified the IFCSA (Issuance and Listing of Securities) Regulations, 2021. The said regulation inter alia applies to the initial public offer or follow-on public offer of specified securities[9], the listing of specified securities by a start-up company or a small and medium enterprise (SME) company, secondary listing of specified securities, listing of depository receipts, listing of debt securities, listing of ESG debt securities, etc., in an IFSC.

Our comments

Capital market intermediaries play an essential role in building a sustainable capital market ecosystem in any financial service centre by providing intermediation facilities between their clients and the various array of regulated financial services. The CMI Regulations bring the practices of the capital market in IFSCs at par with global practices followed in established overseas capital market jurisdictions. Further, as per CMI regulations, registered capital market intermediaries can undertake cross-border business in capital markets in India and foreign jurisdictions. Considering the tax benefit and the ecosystem being created by IFSCs, great opportunities lie with several capital market intermediaries to tap the benefit by setting up their operations in an IFSC.

9. 'Specified securities' mean equity shares and convertible securities.

VIII. Fintech entity framework

Background

As part of the Union Budget 2021, the Finance Minister announced the development of a world-class fintech hub at the IFSC GIFT City. Such a hub would provide further momentum to India's fintech potential, as well as GIFT City's envisioned role as a global financial and IT services hub. The hub is expected to capitalise on the GIFT structure and carve out a niche for itself in the fintech landscape, thereby providing start-ups with a dedicated platform to expand globally.

Considering the importance of the fintech ecosystem in the overall development of International Financial Centres (IFCs), the IFSCA, on 27 April 2022, published a detailed 'Framework for Fintech Entity in the IFSCs.' The framework aims to boost the establishment of a world-class fintech hub at the IFSC GIFT City and encourage the promotion of financial technologies across the spectrum of banking, insurance, securities and fund management activities. The framework covers the following:

1. Fintech solutions resulting in new business models, applications, processes or products in areas/activities linked to financial services regulated by the IFSCA
2. Advanced/innovative technological solutions that aid and assist activities in relation to financial products, financial services and financial institutions

The framework broadly prescribes the following two modes for fintech(s) to register with the IFSCA as a fintech entity (FE):

a. Direct entry (Authorisation by IFSCA)

The framework enables some class/categories of technology entities to obtain direct entry having:

1. A deployable advanced/innovative technology solution that aids and assists activities in relation to financial products, financial services and financial institutions
2. A revenue-earning track record in at least one of the last three financial years

b. Sandbox

An applicant shall be permitted to undertake one or more of the following activities under the IFSCA sandbox:

1. Test fintech ideas or solutions in the IFSCA fintech regulatory sandbox
2. Develop and test fintech ideas or solutions in the IFSCA fintech innovation sandbox
3. Test fintech ideas or solutions in an inter-operable regulatory sandbox
4. Provide fintech ideas or solutions in the overseas regulatory referral mechanism/fintech bridge offered by the IFSCA

Who can apply for direct authorisation under the FE Framework?

Entities from India

1. An entity registered with the Department for Promotion of Industry and Internal Trade (DPIIT) as a start-up entity relating to fintech
2. An entity incorporated as a company under the Companies Act 2013, as a limited liability partnership (LLP) under the Limited Liability Partnership Act, 2008, or the 'Branch' of an Indian company or LLP in an IFSC
3. An entity working directly or indirectly in the ecosystem regulated by a domestic financial sector regulator

Entities from outside India

1. An entity from the Financial Action Task Force (FATF)-compliant countries/jurisdictions

Applicant as a 'Fintech Entity' may do the following:

1. Separately incorporate an entity in the IFSC
2. Establish a branch or a subsidiary of an Indian or foreign incorporated entity in an IFSC

What are the permissible activities?

I. Financial technology (fintech) solutions

Below is an illustrative list of permissible fintech areas/ activities linked to financial services regulated by IFSCA:

Fintech Solutions

Banking sector	Capital markets and funds management	Insurance sector
Remittances and payments	Crowdfunding	Insurtech
Digital lending	Personal finance	Innovative technologies for insurance life cycle (underwriting, claims management of life, health products, etc.)
Buy now, pay later	Wealth tech	Digital innovation for global health insurance cover
Crowd lending	Robo advisory	Innovation in commercial insurance
Digital bank (neo bank/challenger bank)	Sustainable finance products	Digital platform for the settlement of balances between insurance companies
Open banking	Alternative trading platforms	Open insurance
		Embedded insurance
		Cyber insurance

II. Advanced or emerging technology solutions in allied areas/activities (tech-fin)

Below is an illustrative list of allied areas/activities aiding and assisting activities in relation to financial products, financial services and financial institutions (tech-fin):

1 Agritech
2 Accelerators
3 Climate/green/ sustainable tech
4 Defence tech
5 Regulatory tech
6 Space tech
7 Supervisory tech
8 Technology solution supporting digital banking (for example, core banking, etc.)
9 Technology solution aiding trade finance
10 Solutions/services for banking, financial services and insurance (BFSI) domain leveraging
   a Artificial intelligence/machine learning
   b Big data
   c Biometrics
   d Chatbots
   e Cyber security
   f Digital identity/KYC/anti-money laundering (AML)/ combating the financing of terrorism (CFT)
   g Distributed ledger technology
   h Fraud detection/prevention
   i Internet of Things (IoT)
   j Longevity finance
   k Metaverse, including augmented reality and/or virtual reality
   l Quantum tech
   m Web 3.0

Sandbox

'Sandbox' means a live environment with a limited set of real customers for a limited time frame, wherein enrolled fintech entities are permitted to test their solutions/products in a live environment with select real customers/investors operating in the capital market, banking, insurance and other financial services space in an IFSC.

The fintech entities that do not qualify for direct authorisation under the IFSCA FE framework are permitted to undertake one or more of the permissible activities under the IFSCA sandbox covered in the framework. Following are the limited-use authorisations available under the IFSCA FE framework for entities desirous of registering other than direct authorisation:

A. Fintech regulatory sandbox (FRS)

The framework provides for a dedicated regulatory sandbox for fintech products or solutions, namely IFSCA fintech regulatory sandbox, and empowers the IFSCA to grant limited use authorisation within the fintech regulatory sandbox to the eligible financial technology entities in an IFSC. This would also enable them to apply for and avail grants under the IFSCA Fintech Incentive Scheme 2022.

Who can apply for the regulatory sandbox under the FE framework?

Entities from India

1. An entity registered with the Department for Promotion of Industry and Internal Trade (DPIIT) as a start-up entity relating to Fintech
2. An entity incorporated as a company under the Companies Act 2013, as a limited liability partnership (LLP) under the Limited Liability Partnership Act, 2008, or the 'branch' of an Indian company or LLP in an IFSC
3. An entity working directly or indirectly in the ecosystem regulated by a domestic financial sector regulator

Entities from outside India

1. An incorporated entity or the branch of an incorporated entity from FATF-compliant countries/jurisdictions

B. Fintech innovation sandbox (FIS)

'Innovation sandbox' means a testing environment where fintech entities can test their ideas and solutions in isolation from the live market, which may add value to the financial products or financial services offered in an IFSC based on market-related data made available by financial institutions operating in an IFSC.

To promote innovation, IFSCA provides a testing environment under FIS. Upon successful exit from the FIS, the applicant shall be eligible to apply for the IFSCA fintech regulatory sandbox.

Who can apply for the innovation sandbox under the FE framework?
Eligibility criteria remain the same as applicable to entities applying under the regulatory sandbox.

C. Inter-operable regulatory sandbox (IoRS)

'Inter-operable regulatory sandbox' or 'IoRS' means a testing environment for innovative hybrid financial products/services falling within the regulatory ambit of more than one domestic financial sector regulator.

The IFSCA will facilitate Indian fintech companies seeking access to foreign markets and foreign fintech companies seeking entry into India. The applications received by the authority from the domestic sector regulator(s)/coordination group of IoRS shall be subjected to the same screening process for entry into IoRS, as given under the fintech regulatory sandbox criteria of this framework.

Post successful exit from the IoRS, the entity shall approach the authority and the associate regulator(s) for authorisation and seek regulatory dispensation before launching the product in the market.

D. Overseas regulatory referral mechanism/fintech bridge offered by IFSCA

'Overseas regulatory referral' refers to a cooperation mechanism between the authority and any overseas financial sector regulator for facilitating the fintech companies that would like to operate in each other's jurisdictions.

Fintech entities seeking to access the overseas regulatory referral mechanism/fintech bridges of IFSCA shall be governed as per the provisions of the memorandum of understanding (MoU) or collaboration or special arrangement between the authority and corresponding overseas financial sector regulator(s).

Fintech Incentive Scheme (Scheme)

Objective

The principal objective of the scheme is to promote the establishment of a world class fintech hub comparable with those located in advanced international financial centres (IFCs) by providing financial support to fintech activities in the form of specific grant(s) as specified in the said scheme. The Fintech Incentive Scheme is open for domestic fintech companies and foreign fintech companies.

Types of incentives

An eligible FE may receive the following grants under the applicable schemes:

1 The fintech start-up grant is provided for developing a product or service and related go-to-market initiatives to a start-up with a novel fintech idea or solution for up to INR 15 lakh.
2 The proof of concept (POC) grant is provided for the purpose of conducting a POC by an early or mature FE in the domestic market or overseas for up to INR 50 lakh.
3 The sandbox grant is provided to FEs to experiment with innovative products or services in a sandbox for up to INR 30 lakh.
4 The green fintech grant is provided for developing solutions facilitating sustainable finance and sustainability-linked finance, including environmental, social and governance (ESG) investments for up to INR 75 lakh.
5 The accelerator grant is provided for supporting accelerators at an IFSC to eligible accelerator applicants for up to INR 10 lakh.
6 The listing support grant is provided for supporting domestic FEs aspiring to go for listing on stock exchanges recognised by the authority for up to INR 15 lakh.

Our comments

Fintech companies have the potential to transform the financial service landscape in any financial services-focused jurisdiction. Recognising the importance of fintech companies and to promote them further, the IFSCA has introduced the said framework. Eligible entities who have innovative ideas, solutions or technology relating to banking, capital market or insurance sectors can approach the IFSCA under this framework for authorisation as an FE.

The said framework would enable fintech companies to develop/test their products/solutions, which will assist financial institutions by providing them with innovative business models, applications, processes, etc. The framework will provide fintech companies with a platform to expand their operations and also access overseas markets. Given the scope and applicability of this framework, it is expected to deliver benefits to fintech entities and the financial service sector at large.

IX. Fund management entity (FME) - IFSC

Background

In order to develop a comprehensive regulatory framework for investment funds based on global best practices with a special focus on ease of doing business, in the year 2020, the IFSCA set up an expert committee (EC) with the objective of suggesting measures for scaling up venture capital and private equity investments in the IFSC GIFT City. The EC examined the regulatory regimes across various popular fund jurisdictions, such as Luxembourg, Singapore, Ireland, etc., and gave its recommendations. Based on these recommendations, the IFSCA (Fund Management) Regulations, 2022, were notified in 2022. The said regulations have been issued in line with global practices where the IFSCA intends to regulate the fund managers against exercising regulatory oversight over the funds.

Key regulatory requirements

1. What are FME and a fund manager?

Fund management entity or FME means an entity registered with the IFSCA as a fund management entity under the IFSCA (Fund Management) regulations, 2022, under any of the categories specified in the regulations. FMEs can be further segregated into two broad categories – authorised FMEs and registered FMEs (non-retail and retail). Further, a fund manager is any individual who is appointed by the FME to manage its investments.

Authorised FME
These FMEs pool money from accredited investors or investors investing by way of a private placement, and then they invest that money in start-ups or early-stage ventures through the Venture Capital Scheme.

Family investment funds investing in securities, financial products and other permitted asset classes can also seek registration as an authorised FME.

Registered (non-retail) FMEs
These FMEs pool money from accredited investors or investors investing by way of a private placement and then invest that money in securities, financial products and other permitted asset classes through one or more restricted schemes. Such FMEs can also undertake portfolio management services (including services for multi-family offices) and act as investment managers for the private placement of investment trusts (REITs and InvITs).

Registered (non-retail) FMEs can undertake all activities as permitted by authorised FMEs. They are subject to relatively higher regulatory oversight than authorised FMEs but lower oversight than a registered (retail) FME.

Registered (retail) FMEs
These FMEs pool money from all investors or a section of the investors under one or more schemes and invest that money in securities, financial products and other permitted asset classes through retail or restricted schemes. Registered (retail) FMEs may act as investment managers for public offers of investment trusts, i.e., REITs and InvITs. They can also launch exchange-traded funds (ETFs).

Further, such FMEs can undertake all activities as permitted by authorised FMEs and registered (non-retail) FMEs. A registered (retail) FME is subjected to a higher level of regulatory oversight.

2. Who can set up an FME?

1 An entity can register as a company, LLP or branch thereof or any other form as may be permitted by the Authority by establishing a presence in an IFSC.
2 Registered FME (retail) is not permitted to be formed as an LLP or its branch.
3 The branch structure is permitted only for an FME that is already registered and/or regulated by a financial sector regulator in India or a foreign jurisdiction for conducting similar activities. An FME operating as a branch structure in an IFSC is expected to comply with prescribed conditions[10].
4 The memorandum of association in case of a company or the LLP agreement in case of an LLP shall permit it to carry on the activity of fund management.
5 A registered FME (retail) with at least four directors, with at least 50% of the directors being independent directors and not associated with the FME

10. a) The entity shall adequately ring fence the operations of the branch in IFSC.
b) The entity shall comply with the minimum net worth requirements specified in these regulations for its activities in the IFSC, which may be maintained at the parent level.
c) The entity shall maintain such minimum capital as may be specified by the Authority, which shall at all times be earmarked for the IFSC and may be held in the jurisdiction of its incorporation.
d) Any other requirements as may be specified by the Authority from time to time.

3. What are the net worth requirements for setting up an FME?

An entity seeking registration as an FME must at all times comply with the net worth requirements as specified below:

Type of FME	Minimum net worth requirements
Authorised FME	USD 75,000
Registered (non-retail) FME	USD 500,000
Registered (retail) FME	USD 1,000,000

In case an FME operates as a branch, it would suffice if the parent entity complied with the condition. However, the parent entity shall ensure that adequate funds are available for the branch for its day-to-day operations.

4. What are the permissible activities for FME?

1 **Authorised FME**
- Managing venture capital schemes
- Managing family investment fund

2 **Registered FME (non-retail)**
- Managing restricted schemes
- Acting as an investment manager of investment trusts (REITs and InvITs) offered under a private placement
- Portfolio management services (including services for multi-family offices)
- All activities permitted to authorised FMEs

3 **Registered FME (retail)**
- Managing retail or restricted schemes
- Acting as an investment manager of investment trusts (REITs and InvITs) offered to the public
- Launching exchange-traded funds
- All activities permitted to authorised FMEs and registered FMEs (non-retail)

5. What are the permissible investments under fund management?

1 **For venture capital (VC) schemes**
- Primarily investment in unlisted securities of start-ups, emerging or early-stage venture capital undertakings (VCUs) mainly involved in new products, new services, technology or intellectual property rights and includes angel funds
- Listed/unlisted securities (other than the above), investment in LLP, money market instruments, debt securities, securitised debt instruments, other venture capital schemes, units of mutual funds/alternative investment funds (AIFs), etc.

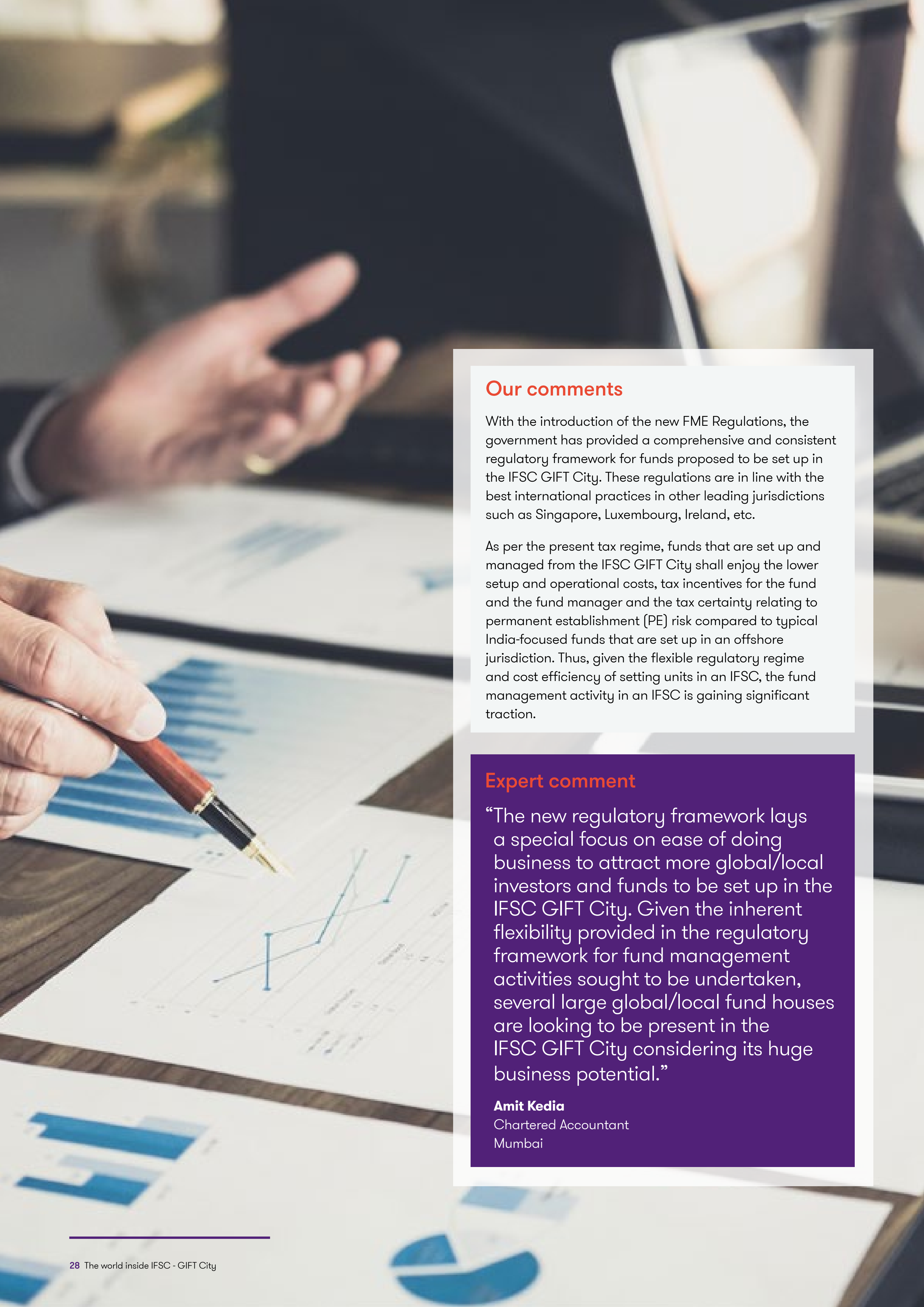
2 **Restricted schemes (non-retail)**
- Investment, either in start-ups, early-stage ventures, social ventures, SMEs, infrastructure or other sectors that the government considers as socially/economically desirable and includes venture capital funds, SME funds, social venture funds, infrastructure funds, ESG funds, and special situation funds
- Listed/unlisted securities (other than the above), investment in LLP, money market instruments, debt securities, securitised debt instruments, other schemes, derivatives (including commodity derivatives), units of mutual funds/AIFs, etc.
- A close-ended scheme may invest up to 20% of the corpus in physical assets such as real estate, bullion, art or any other physical asset as may be specified by the Authority from time to time

3 **Retail schemes**
- Listed/unlisted securities, money market instruments, debt securities, securitised debt instruments, other investment schemes, derivatives (including commodity derivatives), units of mutual funds and AIFs, etc.

Conditions for funds set up under different schemes:

Particulars	Venture capital schemes	Restricted schemes (non-retail)	Retail schemes
Borrowing and leverage	Permissible without limit, subject to disclosure in the PPM and consent of 2/3rd of the investors by value		Borrowing permissible only to meet temporary liquidity needs subject to prescribed conditions
Investment in unlisted entities	No restrictions, primarily on investment in unlisted securities	• Open-ended scheme: Max 25% of the corpus • Close-ended scheme: No restrictions	• Open-ended scheme: Max 15% of the asset under management (AUM) • Close-ended scheme: Max 50% of AUM
Co-investment	Permissible, subject to conditions	Permissible, subject to conditions	NA
Corpus	**Min:** USD 5 million (approx. INR 40 crore) **Max:** USD 200 million (approx. INR 1,600 crore)	**Min:** USD 5 million (approx. INR 40 crore) **Max:** NA	**Min:** USD 5 million (approx. INR 40 crore) **Max:** NA
Eligible investors	• Accredited investors (to be defined by the IFSCA soon); and/or • Investors investing above USD 250,000 (approx. INR 2 crore) (USD 60,000 (approx. INR 48 lakh) for employees/directors of FME)	• Accredited investors (to be defined by IFSCA soon); and/or • Investors investing above USD 150,000 (approx. INR 1.20 crore) (USD 40,000 (approx. INR 32 lakh) for employees/directors of FME)	• Open-ended scheme: No restrictions • Close-ended scheme: No restrictions (USD 10,000 (approx. INR 8 lakh) in case investment in unlisted securities exceeds 15% of the AUM)
Minimum no. of investors	NA	NA	Min 20 investors Single investor – max 25% of AUM
Green channel	Possible	Possible if all are accredited investors	NA
Maximum no. of investors	50 investors	1,000 investors	No restrictions
Taxation	To be construed as Category I AIF	To be construed as Category I/II/III AIF, depending upon the investment theme	To be taxed depending upon the investment theme
Scheme type and tenure	• Open-ended scheme: NA • Close-ended scheme: Min tenure of three years	• Open-ended scheme: No restrictions • Close-ended scheme: Minimum tenure of one year	• Open-ended scheme: No restrictions • Close-ended scheme: Minimum tenure of one year
'Skin-in-the-game' contribution by FME or its associate[11]	Targeted corpus (TC) is less than USD 30 million (approx. INR 240 crore): At least 2.5% of the targeted corpus and not exceeding 10% of the targeted corpus TC is more than USD 30 million: At least USD 750,000 (approx. INR 6 crore) and not exceeding 10% of the targeted corpus	**In the case of a close-ended scheme:** • TC is less than USD 30 million: At least 2.5% of the targeted corpus and not exceeding 10% of the targeted corpus • TC is more than USD 30 million: At least USD 750,000 and not exceeding 10% of the targeted corpus **In the case of an open-ended scheme:** • TC is less than USD 30 million: At least 5% of the targeted corpus and not exceeding 10% of the targeted corpus • TC is more than USD 30 million: At least USD 1.5 million (approx. INR 12 crore) and not exceeding 10% of the targeted corpus	• Lower of 1% of the AUM or USD 200,000 (approx. INR 1.6 crore)
Investment in associates	Permissible, subject to prior approval of 75% of investors in the scheme by value		Max 25% of the AUM

11. To be made in proportion to the investor's investment in the scheme within 45 days (could be extended subject to the satisfaction of IFSCA) and maintained on an ongoing basis. Contribution by the FME shall be included for the purpose of its net worth requirement. Such contribution by the FME is not mandatory in case of relocation of funds/schemes established, incorporated or registered outside India to IFSC. Further, the said mandatory contribution should be exempted if:
(a) At least two-third (2/3rd) of the investors in the scheme by value permit waiver of such contribution
(b) At least two-third (2/3rd) of the investors in the scheme are accredited investors
(c) The scheme is a fund-of-fund scheme investing in another scheme that has similar requirements



Our comments

With the introduction of the new FME Regulations, the government has provided a comprehensive and consistent regulatory framework for funds proposed to be set up in the IFSC GIFT City. These regulations are in line with the best international practices in other leading jurisdictions such as Singapore, Luxembourg, Ireland, etc.

As per the present tax regime, funds that are set up and managed from the IFSC GIFT City shall enjoy the lower setup and operational costs, tax incentives for the fund and the fund manager and the tax certainty relating to permanent establishment (PE) risk compared to typical India-focused funds that are set up in an offshore jurisdiction. Thus, given the flexible regulatory regime and cost efficiency of setting units in an IFSC, the fund management activity in an IFSC is gaining significant traction.

Expert comment

"The new regulatory framework lays a special focus on ease of doing business to attract more global/local investors and funds to be set up in the IFSC GIFT City. Given the inherent flexibility provided in the regulatory framework for fund management activities sought to be undertaken, several large global/local fund houses are looking to be present in the IFSC GIFT City considering its huge business potential."

Amit Kedia
Chartered Accountant
Mumbai

X. Aircraft leasing in IFSC

Background

In recent years, India has emerged as a major market for global aircraft supplies. The aircraft financing and leasing industry has developed significantly over a period of time worldwide. There has been unprecedented growth in the Indian aviation sector over the past decade, with exponential acceleration in the last five years. Domestic passenger traffic is reported to have risen at a compounded annual growth rate of 10.76% during the periods 2007-08 and 2017-18, and international passenger traffic grew at an 8.32% compound annual growth rate (CAGR) during the same period. Presently, India has the third-largest order for aircraft booked globally, and the commercial fleet size is expected to exceed 5,000 aircraft by 2050.

Given the high purchase cost of aircraft, lease arrangements have been popularly used by aircraft operators to manage their operational costs. For this, Indian aircraft operators are relying on foreign lessors to finance the acquisition of the aircraft.

Currently, countries like Ireland, the USA, China, Singapore and Hong Kong have become global hubs for this industry by setting up an effective regulatory environment to facilitate aircraft lease and financing. The success of these jurisdictions is owed to the concessional tax regimes, favourable accounting rules and stable business environment.

In order to make India an aviation hub and develop the aircraft leasing and financing business in India, a working group on developing avenues for aircraft financing and leasing activities in India was constituted by the Ministry of Civil Aviation in May 2018. The working group had identified the International Financial Services Centre (IFSC) in the Gujarat International Finance Tec-city (GIFT City) as the location to onshore the offshore aviation leasing business in India.

The committee published the report 'Project Rupee Raftaar' in January 2019, which recommended structural changes and incentives to make IFSCs at par with the above jurisdictions. The Union Finance Minister, in the Budget speech in 2019, also recognised the potential of aircraft financing and leasing activities from Indian shores to develop a self-reliant aviation industry and create aspirational jobs in aviation finance.

In order to undertake the aforesaid activity, the government of India (GOI) notified 'aircraft lease' as an eligible financial product, which includes operating and financial lease and any hybrid of operating and financial lease of aircraft/helicopter/engines of aircraft or helicopter or any part thereof, under the IFSCA Act, 2019. Further, GOI, in the past few years, has announced several tax incentives to promote aircraft leasing in an IFSC. In order to operationalise the aircraft leasing business in India, the IFSCA provided a framework to enable aircraft operating leases from an IFSC in India in February 2021. The IFSCA also specified an operating lease (including a hybrid of operating and financial lease) in respect of 'aircraft ground support equipment' as one of the permitted activities.

Further, on 18 May 2022, the IFSCA prescribed a detailed regulatory framework for aircraft lease under the IFSCA (Finance Company) Regulations 2021, so that aircraft leasing activity could be undertaken from the IFSC GIFT City.

Regulatory framework for aircraft leasing

- In order to carry out transactions in aircraft leasing, an entity needs to be registered as a 'finance company' or 'finance unit' as per the IFSCA (Finance Company) Regulations, 2021 ('Finance Company Regulations').
- As per the Finance Company Regulations, an operating lease transaction for an aircraft lease is classified as a 'permitted non-core activity,' and a finance lease transaction for an aircraft lease is classified as a 'permitted core activity,' which includes a hybrid of finance lease and operating lease transactions.

Who can act as a lessor in IFSC?

- An entity registered with IFSCA as a 'finance company' or a 'finance unit' in accordance with the Finance Company Regulations and:
  a Engaged in the business of providing aircraft or helicopter and engines of aircraft or helicopter or any other part thereof and/or aircraft ground support equipment under an operating lease, financial lease and/or a hybrid of the financial and operating lease
  b Any other related activity as may be specified by the IFSCA from time to time

Eligibility criteria for the lessor

- An entity desirous of setting up operations in an IFSC can establish a unit by way of either a company, a limited liability partnership (LLP), a trust or in any other form as may be specified by the IFSCA, along with meeting the eligibility criteria and other requirements as specified under the Finance Company Regulations. Moreover, the promoter/partners/trustee, as the case may be, of the aforesaid entity shall be located in a FATF-compliant jurisdiction.
- An entity in an IFSC intending to undertake aircraft lease only through its wholly-owned subsidiary/subsidiaries (WOS) set up in an IFSC shall also be deemed to be a lessor under this framework, and it may make an application for registration accordingly.

Capital requirement for lessors

- A minimum owned fund of USD 200,000 (in case of operating lease)/USD 3 million (in case of finance lease) or its equivalent in freely convertible foreign currency is to be maintained at all times by the entity undertaking operating/finance lease transactions, respectively.

Permissible activities under the operating lease:

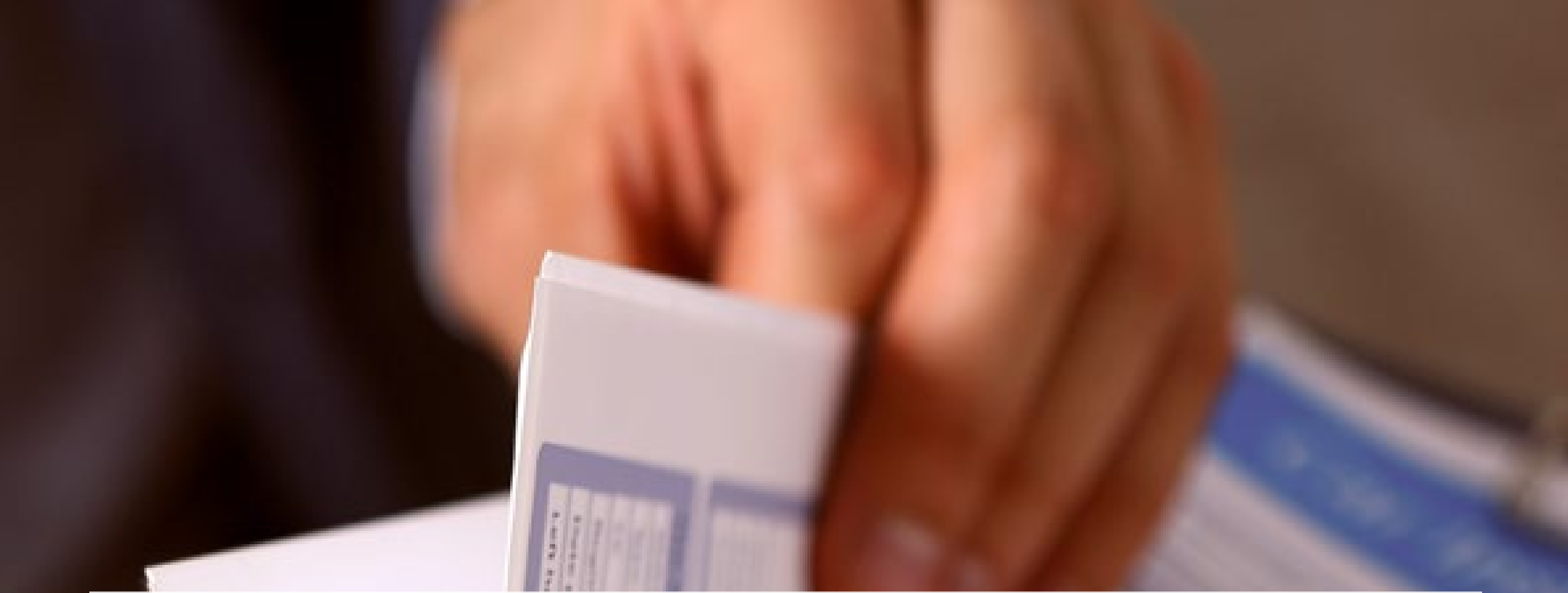
A lessor is permitted to undertake all or any of the following activities:

1 Operating lease for an aircraft lease arrangement, including sale and leaseback, purchase, novation, transfer, assignment and other similar transactions in relation to aircraft lease
2 Operating lease for an aircraft ground support equipment
3 Asset management support services for assets owned or leased out by the entity or by its WOS set up in IFSCs in India
4 Any other related activity with the prior approval of the IFSCA

Permissible activities under the finance lease

A lessor is permitted to undertake all or any of the following activities:

1 Financial lease or a hybrid of the financial and operating lease for an aircraft lease arrangement, including sale and leaseback, purchase, novation, transfer, assignment and other similar transactions in relation to aircraft lease
2 Financial lease or any hybrid of the financial and operating lease for an aircraft ground support equipment
3 Permitted activities as stated under the operating lease
4 Any other related activity with the prior approval of the IFSCA



Key tax advantages (other than generic deductions available)

- Any income earned by a non-resident by way of royalty or interest on account of the lease of an aircraft paid by a unit in an IFSC shall be exempt from tax, subject to these units commencing operations on or before 31 March 2024.
- No withholding of tax is required to be made on payment in the nature of lease rent or supplemental lease rent made by a lessee to a lessor being a unit located in an IFSC for the lease of an aircraft subject to the fulfilment of certain prescribed conditions.
- Aircraft is a depreciable asset for a unit in an IFSC that owns it. Depreciation on aircraft and aircraft engines is allowed at 40% on the written-down value (WDV) basis. Unabsorbed depreciation can be carried forward to the subsequent years to be set off against future profits without any time limit.
- Capital gains arising on the transfer of aircraft or aircraft engines would be eligible for a 100% profit-linked deduction (for any 10 consecutive years out of the first 15 years of operations) subject to the unit commencing its operations on or before 31 March 2024.
- Capital gains arising on the sale of equity shares of an IFSC unit engaged in aircraft leasing to a non-resident or another IFSC unit engaged in aircraft leasing are exempt, subject to satisfying the prescribed conditions.
- Dividend income received by a unit in an IFSC engaged in aircraft leasing from another unit in an IFSC also engaged in aircraft leasing is exempt.

Other advantage

- A unit in an IFSC authorised to undertake aircraft leasing activity has been granted permission to utilise office space or manpower, or both of another unit set up in an IFSC authorised to undertake aircraft leasing activity, as may be approved by the IFSCA.

Our comments

The future of aircraft leasing from India is not only promising but on the verge of revolution. Currently, India is participating as a consumer of international financial services for financing its acquisition of aircraft on a lease basis. As the world's third-largest domestic aviation market, the time is ripe for India to enter into aircraft financing and leasing activities from Indian shores. There is a huge business opportunity in India in terms of financing and leasing aircraft, especially to Indian carriers. In order to tap this massive opportunity, the IFSCA has developed an effective regulatory mechanism to enable aircraft financing and leasing from the IFSC GIFT City. Tax and other incentives, coupled with a cost-effective workforce available in India, could further aid in making the IFSC GIFT City a hub for aircraft leasing activity.

XI. IFSC Insurance Office (IIO) and IFSC Insurance Intermediary Office (IIIO)

Background

- Insurance is a global business and an important segment for economic development, global economic integration and growing international trade. There are more than 250 operational special economic zones in India. Industrial estates, free ports, large-scale international businesses and multinational corporations are also operational in special economic zones. The presence of these businesses opens immense opportunities for the insurance business.

IFSC Insurance Office

Regulatory framework

- Insurers/reinsurers desirous of setting up an IIO are required to obtain a licence from IFSCA.
- Further, a foreign insurer/reinsurer should be registered or licenced for transacting an insurance or reinsurance business, or both, in its home country or country of its incorporation or domicile.
- An Indian insurer or reinsurer[12] can set up a place of business in an IFSC, and a foreign insurer or foreign reinsurer or MGA or Lloyd's, as the case may be, can set up a branch in an IFSC.

Regulatory requirements

The IIO is required to follow the basic regulatory requirements, which are summarised as under:

Assigned capital
A minimum of USD 1.5 million (equivalent in any freely convertible foreign currency) is required to be maintained by an Indian insurer desirous of setting up a place of business or a foreign insurer/reinsurer or Lloyd's[13] or managing general agent (MGA) desirous of setting up a branch office in an IFSC.

Net owned fund (NOF[14])
NOF of not less than INR 1,000 crore (equivalent in any freely convertible foreign currency) is required to be maintained in cases where the applicant in an IFSC is a foreign company engaged in reinsurance business through a branch established in an IFSC.

Paid-up equity capital
A minimum of INR 100 crore, in case of a person carrying on the business of life insurance, health insurance or general insurance, is required to be maintained by a public company, a wholly-owned subsidiary of an insurer or a reinsurer and an insurance cooperative society or a body corporate seeking registration from the IFSCA.

A minimum paid-up equity capital of INR 200 crore is required to be maintained for a company exclusively carrying on the business as a reinsurer in an IFSC.

Solvency margin
Any applicant registering an IIO in an IFSC is required to maintain a solvency margin for its IIO, as stipulated by its home country regulatory or supervisory authority or the IFSCA, as applicable. Further, such solvency margin may be maintained in the home country, country of incorporation or domicile, and the asset backing such solvency margin shall be invested as per the requirements of its home country regulatory or supervisory authority and remain unencumbered at all times as prescribed.

The applicant registering an IIO as the place of business of an Indian insurer or branch of any foreign insurer or reinsurer shall submit a quarterly certificate on the maintenance of the solvency margin duly certified by its appointed actuary.

Key permissible activities
An IIO may carry any of the following class of businesses as may be permitted by the IFSCA subject to certain conditions:

1 Life insurance business
2 General insurance business
3 Health insurance business
4 Reinsurance business
5 Such other insurance or reinsurance business-related services as may be specified by the IFSCA, subject to obtaining prior approval of the IFSCA

12. Insurers/reinsurers being applicants at IFSC means an existing 'insurer' registered with the IRDAI, a foreign insurer/reinsurer, the Society of Lloyd's on behalf of the members of Lloyd's, a branch office of foreign insurer or Lloyd's India registered by the IRDAI, a public company or a wholly-owned subsidiary of an insurer or a reinsurer that is formed and registered under the Companies Act, 2013, an insurance co-operative society, a body corporate incorporated under the law of any country outside India not being of the nature of a private company, a managing general agent who has a valid binding agreement with a foreign insurer/reinsurer
13. 'Lloyd's' means the society of underwriters known in the United Kingdom as Lloyd's and incorporated by the Lloyd's Act 1871 of the United Kingdom
14. 'Net owned fund' or 'NOF' means the sum of paid-up equity capital, free reserves and securities premium account reduced by accumulated losses and the book value of intangible assets.

The IIO registered to transact a direct insurance business is permitted to do so from within an IFSC, other SEZs and outside India. However, it shall not write direct insurance business from the DTA as prescribed. Further, the IIO registered to transact reinsurance business may accept:

- Reinsurance business from the cedents based in an IFSC, in relation to risk emanating from other SEZs and reinsurance business from outside India
- Reinsurance business from the insurers operating in DTA in accordance with the order of preference for cession specified in the IRDAI (Re-insurance) Regulations, 2018.

IFSC Insurance Intermediary Office

Key regulatory requirements

To operationalise insurance intermediaries in IFSCs, a regulatory framework focusing on the ease of doing business has been issued by the IFSCA to permit an insurance intermediary to undertake activities relating to the insurance business.

Following insurance intermediaries can register and obtain a licence from IFSCA:

1. Insurance distributor:
   a Composite broker
   b Corporate agent
   c Direct broker
   d Reinsurance broker

2. Insurance claim service provider:
   a Surveyor and loss assessor
   b Third-party administrator

- An applicant already registered as an intermediary or insurance intermediary with the IRDAI in India and desirous of setting up a branch office in an IFSC shall meet the following conditions:
  a It holds a valid certificate of registration issued by IRDAI, which is not withdrawn, cancelled or suspended.
  b It has acted as an insurance intermediary in such category for which it is registered.
  c It has obtained a “no-objection certificate” from IRDAI to establish a branch office in an IFSC.

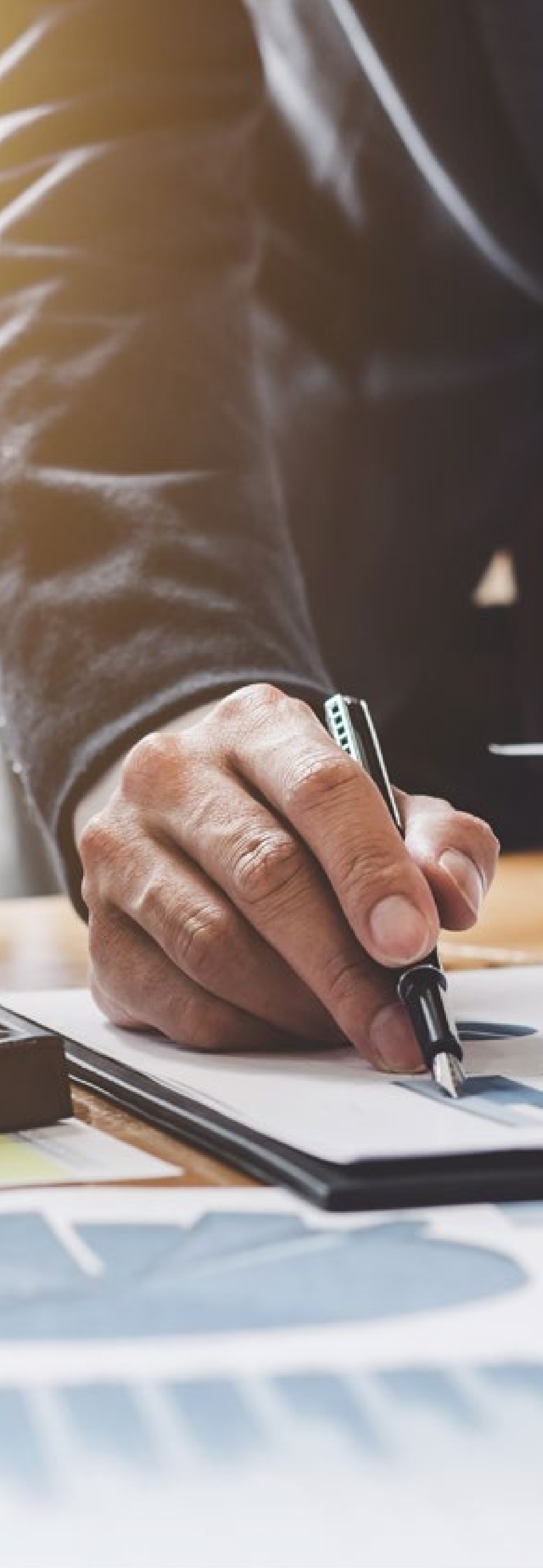
- An applicant registered or licenced as an insurance intermediary outside India and desirous of setting up a branch office in an IFSC shall meet the following conditions:
  a It holds a valid certificate of registration issued by its home country regulatory or supervisory authority, which is not withdrawn, cancelled or suspended.
  b It has acted as an insurance intermediary in such category for which it is registered.
  c It is from a FATF-compliant jurisdiction or country.
  d It is registered or certified in a national regulatory environment, and the government of India has signed a Double Taxation Avoidance Agreement with it.
  e It has obtained a ‘no-objection certificate’ from its home country regulatory or supervisory body to establish a branch office in an IFSC.

- An applicant that is not covered above and which is a company incorporated under the Companies Act, 2013 or either a firm, a co-operative society or a body corporate incorporated under the law of any country outside India desirous of setting up a company, co-operative society, LLP and any other legal form, as specified by the IFSCA, shall meet the following requirements:
  a It shall have the minimum prescribed paid-up equity capital or net worth, as may be applicable.
  b It shall be from a FATF-compliant jurisdiction or a country.
  c It is registered or certified in a national regulatory environment, and the government of India has signed a Double Taxation Avoidance Agreement with it.

Permissible activities

The IIIO shall exclusively carry on the business for which the registration has been granted and in the manner specified by the Authority. All financial transactions of the IIIO shall be carried out in a freely convertible foreign currency other than the Indian Rupee. The IIIO may perform any of the following activities:

- A direct insurance broker is permitted to perform the activities of direct insurance business from and within an IFSC, from other SEZs in India and from outside India. However, the IIIO registered to solicit a direct insurance broker shall not solicit direct insurance business from the Domestic Tariff Area (DTA) in India as prescribed.
- A composite broker or reinsurance broker is permitted to perform the activities of a reinsurance broker or composite



broker within an IFSC, in other SEZs in India, DTA and outside India.

- The third-party administrators (TPAs), surveyors and loss assessors registered as IIIO shall not render services for the policies other than those issued by an IIO, and an insurer domiciled outside India. However, a TPA is permitted to service foreign travel policies and health policies issued by Indian insurers covering medical treatment or hospitalisation outside India.

Our comments

The IFSCA is undertaking efforts to boost global investments in the IFSC GIFT City, and the country could become a reinsurance hub with the introduction of a new liberal regulatory regime for the reinsurance business. Foreign insurers and reinsurers, which are presently not present in India, can also set up IIOs to undertake insurance or reinsurance business from the IFSC. Indian insurance and reinsurance companies, including the foreign reinsurance branches registered with the IRDAI, can also set up branch offices to undertake insurance or reinsurance business from an IFSC. Further, to boost the establishment of branch offices as IIOs, units in the IFSC GIFT City may not be mandatorily required to bring the minimum capital into an IFSC, and the same could be maintained at the head office level.

The key benefits of setting up IIOs are that they provide entities with the opportunity to save cost at an enterprise level, access skilled and employable talent pool in India and access a huge Indian market.

The global reinsurance market in terms of net written premium was worth USD 137.159 billion in 2020, whereas the forecast for 2026 is USD 354.540 billion. The new IFSCA regulations on the registration of insurance businesses and insurance intermediaries would help an IFSC to expand its share of the global reinsurance market on a consistent basis.

Given the above benefits and value proposition posed by the IFSC GIFT City, we believe that this would help India develop into a global reinsurance hub competing with various offshore financial centres globally.

XII. International Bullion Exchange in IFSC

Background

Currently, India has a few commodity exchanges and operates as futures exchanges, which are primarily used to hedge against gold price risk and take proprietary positions on gold price movement. On the other hand, a spot exchange focuses on price discovery, and hence, provides the entire ecosystem around physical deliveries. Thus, there was a need for setting up a bullion exchange, which would provide an efficient and trusted ecosystem for trading gold with an aim to improve market transparency, protect the interests of market participants and facilitate India to emerge as a price setter for gold.

On 31 August 2020, the GOI notified the bullion spot delivery contract and bullion depository receipt (with bullion as underlying) as financial products and related services as financial services under the IFSC Authority (IFSCA) Act, 2019.

Subsequently, the IFSCA on 4 December 2020, notified the IFSCA (Bullion Exchange) Regulations, 2020, to provide a framework for recognition of bullion exchanges, their clearing corporations, depositories and vaults. The Bullion Exchange Regulations envisage providing an integrated platform for all the market intermediaries, including trading members/clearing members, bullion depositories, vault managers, etc., to facilitate transparency and traceability in the bullion market and standardisation of bullion contracts.

Operating guidelines on Bullion Exchange, Bullion Clearing Corporation, Bullion Depository and Vault Manager were issued by the IFSCA in August 2021.

The India International Bullion Exchange (IIBX) IFSC Limited was set up as an international bullion exchange in IFSC and has been recognised by the IFSCA as a Bullion Exchange and Bullion Clearing Corporation.

Regulatory framework for International Bullion Exchange in IFSC

What is bullion?

Bullion has been defined to mean precious metals, including gold, silver or any other precious metal in the form of bars or unallocated gold, silver or such other precious metals as the Authority may consider relevant in this regard, relating to a good delivery, quality, quantity and any other aspect in relation to bullion trading, from time to time.

What is the meaning of a financial product and financial services?

Financial product	Financial services
A Bullion spot delivery contract is defined to mean a contract that provides for the following: 1 Actual delivery of bullion and the payment of a price therefor, either on the same day as the date of the contract or on the next day, the actual period for the delivery of the bullion or the remittance money, therefore being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality 2 Transfer of the bullion by the depositary from the account of a beneficial owner to the account of another beneficial owner when such bullion is dealt with by a depositary licenced by the IFSCA for this purpose Bullion depository receipt (BDR) with underlying bullion • Defined to mean such bullion depository receipt listed on the IBE operating inside an IFSC	1 Trading in bullion depository receipts with underlying bullion in relation to bullion spot delivery contracts 2 Provision of bullion financing, bullion-based loans, bullion loans against collateral, bullion vaulting, clearing and settlement services in relation to bullion spot delivery contracts and bullion depository receipts

Key participants and their eligibility

Who can become members of the bullion exchange?

Following entities are eligible to become members of the bullion exchange for trading in BDR with underlying bullion:

- Banking units at IFSC (IBUs)
- Subsidiaries/branches of entities dealing with financial products set up in an IFSC
- Banks authorised by RBI and nominated agencies authorised by the Directorate General of Foreign Trade (DGFT) to deal in bullion

Eligibility criteria for a member setting up operations in IFSC

- Either through a subsidiary or branch or any other mode as permitted by the IFSCA
- Entities proposing to set up shall be from FATF-compliant jurisdictions

Trading member

- At least one employee having experience of a minimum of three years and sound knowledge of the precious metals industry

Market-making member

- Shall have an established setup in the precious metals industry and related experience, knowledge and resources
- Shall have a membership or licence to operate with any existing exchanges or markets with the capacity to execute operations related to precious metals
- Shall have personnel with experience of a minimum of three years and sound knowledge in the precious metals industry

Customers

The following persons shall be considered as customers for the purpose of the guidelines issued by the IFSCA:

Person resident outside India

- Qualified individual with a minimum net worth of USD 250,000
- Corporate or institutional entities with a minimum net worth of USD 500,000

Person resident in India

- Corporate or institutional entities (including banks) who are customers of nominated banks/agencies

Key participants in the bullion exchange ecosystem

1 Bullion Exchange
It refers to a financial institution established for the purpose of assisting, regulating and controlling bullion contracts in an IFSC.

2 Bullion Clearing Corporation
It refers to a financial institution performing the clearing and settlement functions in the bullion market relating to bullion contracts in an IFSC.

3 Bullion Depository
It refers to a financial institution carrying on depository business by assisting trading of bullion (through issuing bullion depository receipt on the underlying bullion) in electronic form on bullion exchange in an IFSC.

4 Bullion Trading and Clearing member
- A person having trading rights in any bullion exchange is a trading member.
- A person having clearing rights in any recognised bullion clearing corporation is a clearing member.

5 Vault
- It refers to the premises where the vault manager takes custody of the bullion deposited by the depositor and includes a place for storage of the bullion.

Our comments

The International Bullion Exchange shall be the ‘Gateway for Bullion Imports into India,’ wherein all the bullion imports for domestic consumption shall be channelised through this exchange. With the regulations pertaining to bullion exchange and intermediaries already being issued by the IFSCA, the same should result in the evolvement of a robust bullion ecosystem, which should aid India in providing an efficient price discovery mechanism for gold. In addition to this, the bullion exchange in the IFSC GIFT City would also provide assurance in the quality of gold and enable greater integration with other segments of financial markets, which will help establish India’s position as a dominant bullion trading hub in the world.

XIII. Ship leasing in IFSC

Background

Maritime transport is the backbone of international trade and the global economy. The Ministry of Shipping has estimated that about 95% of Indian goods' trade by volume and 70% by value is done through maritime transport. In June 2021, the IFSCA constituted a committee to examine the global best practices in financing and leasing of ships, identify opportunities and devise a roadmap to enable such activities from IFSC. The committee submitted its report in October 2021 to the IFSCA with the primary objective of enabling the seeding of a robust Ship Acquisition, Financing and Leasing (SAFAL) regime at the IFSCs. The report comprises a set of critical and necessary changes required to be made in the tax, legal and regulatory framework relating to ships, ship finance and shipping services in an IFSC.

Post successful enablement of the activity of aircraft leasing through the issuance of Framework for Aircraft Lease, the IFSCA, after evaluating the potential of ship leasing in the context of 'Atma Nirbhar Bharat,' aims to provide an enabling regulatory framework for promoting an IFSC as a hub for international ship leasing and financing business. Based on the recommendations of the SAFAL report, the IFSCA-specified 'ship lease' includes the operating lease and a hybrid of operating and financial lease of a ship or ocean vessel, engine of a ship or ocean vessel or any other part thereof as a financial product under the IFSCA Act.

The activity of ship leasing is one of the permitted activities under the IFSCA (Finance Company) Regulations, 2021. To operationalise the said activity, IFSCA has issued the 'Framework for Ship Lease' vide Circular dated 16 August 2022. The framework covers guidelines on:

1 Operating lease
2 Financial lease (including a hybrid of financial and operating lease)
of a ship or ocean vessel, engine of a ship or ocean vessel or any other part thereof

As per the framework, an entity intending to undertake ship leasing activity in an IFSC shall be registered as a finance company/unit, as per the IFSCA (Finance Company) Regulations, 2021.

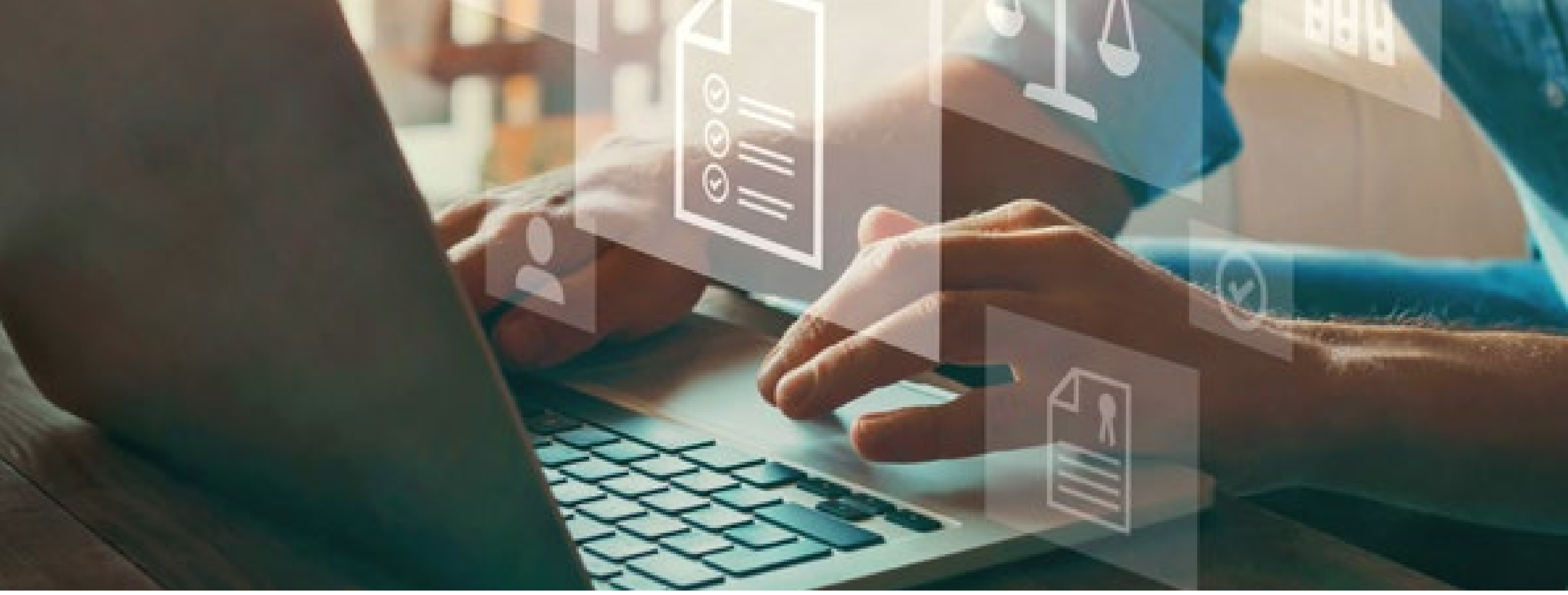
Regulatory framework for ship leasing in an IFSC

The key terms as per the framework:

Lessor	It includes an entity registered with IFSCA as a finance company or finance unit in accordance with this framework, and a. Engaged in the business of providing ships or ocean vessels and engines of ship or ocean vessels, or any other part thereof under an operating lease, financial lease and/or a hybrid of a financial and operating lease b. Any other related activity as may be specified by the Authority from time to time
Ocean vessel	It includes every description of watercraft used or capable of being used in the marine environment, such as a ship, boat, sailing vessel, fishing vessel, submersible, semi-submersible, hydrofoils, non-displacement crafts, amphibious crafts, wing-in-ground crafts, pleasure crafts, barges, lighters, mobile offshore drilling units, mobile offshore units, or of any other description or any part thereof and shall include inland water vessels and coasting vessels but does not include fishing or sailing watercraft.
Ship	It includes any watercraft used or capable of being used in navigation by its own propulsion in, above or under the water but does not include fishing or sailing watercraft.

Who is eligible to set up a business under the ship leasing framework?

1 An entity in the form of either a company, a limited liability partnership (LLP), a trust, a branch under this framework or in any other form as may be specified by the IFSCA from time to time
2 In the case of a company, the promoter, as defined in the Companies Act, 2013 of the applicant entity, shall be located in a Financial Action Task Force (FATF)-compliant jurisdiction.



3 In the case of an LLP or a trust, the partners or the trustees, as the case may be, shall also comply with the above requirement.
4 All entities set up in an IFSC for carrying out permitted activities as envisaged in the framework shall comply with all requirements, exceptions, regulations and conditions imposed by any applicable statute, including the Merchant Shipping Act 1958.
5 Entities desirous of undertaking permissible activities as a lessor can submit an application form to the IFSCA to obtain a certificate of registration from the IFSCA under Finance Company Regulations.

Capital requirement for lessors

A minimum owned fund of USD 200,000 (in case of operating lease)/USD 3 million (in case of finance lease) or its equivalent in freely convertible foreign currency is to be maintained at all times by an entity undertaking operating/finance lease transactions, respectively.

Permissible activities under the operating lease

1 A lessor in IFSCs is permitted to undertake all or any of the following activities:
   i. Operating lease
   ii. Voyage charters, contract of affreightments, employment in shipping pools and all other legal commercial transactions for the employment of ships
   iii. Asset management support services for assets owned or leased out by the lessor or by any of its group entities set up in IFSCs in India
   iv. Sale and lease back, purchase, novation, transfer, assignment and such other similar transactions in relation to ship lease
   v. Any other related activity with the prior approval of the IFSCA

2 A transaction shall be classified as a lease if it is in accordance with the Indian Accounting Standards (Ind AS 116) on Leases. All transactions undertaken by a lessor shall be in a freely convertible foreign currency only.

Permissible activities under the finance lease

1 A lessor in IFSCs is permitted to undertake all or any of the following activities:
   - Financial lease
   - A hybrid of financial and operating lease
   - Permitted activities under the operating lease of this framework
   - Any other related activity with the prior approval of the IFSCA

2 A transaction shall be classified as a lease if it is in accordance with the Indian Accounting Standards (Ind AS 116) on leases. All transactions undertaken by a lessor shall be in a freely convertible foreign currency only.

Our comments

This is a welcome move towards developing a global shipping industry in India. The legal framework for ship leasing in the IFSC GIFT City will be helpful for international players to participate in the ship leasing business for cross-border functionality for a transaction involving multiple jurisdictions and tax efficiencies. It would also attract ship owners and charterers to set up their place of operations in India rather than setting up their shipping bases offshore.

India, which has a huge export-import trade, is a country of charterers and not shipowners, thereby resulting in substantial spending of around USD 75 billion annually for chartering foreign flag vessels for India's international trade[15]. Fostering the development of ship leasing, financing and owning in the IFSC GIFT City will also serve as the foundation for unleashing the employment and output multipliers on the shipping industry and the Indian economy and also help the country save on precious foreign currency.

15. Committee report for Ship Acquisition, Financing and Leasing from IFSC – October 2021

XIV. Ancillary services framework

Background

Considering the importance of service providers in the development of any robust financial ecosystem, the IFSCA, in February 2021, issued a framework for enabling ancillary services framework in an IFSC. This framework is applicable to all ancillary service providers engaged in one or more permissible ancillary services within an IFSC. It may be noted that vide the Union Budget 2023, it is proposed to amend the IFSCA Act to include statutory provisions for ancillary services.

What are ancillary services?

Ancillary services shall mean those services which directly or indirectly aid, help, assist or strengthen or are attendant upon or connected with the services, as detailed under the IFSCA Act, 2019.

What are the permissible ancillary services?

The service providers are permitted to engage in any one or more of the following activities under this framework post receiving approval from the IFSCA:

1 Legal, compliance and secretarial
2 Auditing, accounting, bookkeeping and taxation services
3 Professional and management consulting services
4 Administration, assets management support services and trusteeship services
5 Any other services as approved by the IFSCA from time to time

Who are eligible to become service providers under the ancillary services framework?

The following entities are eligible to act as service providers so as to provide permissible ancillary services:

1 Any existing or newly incorporated entity set up in an IFSC
2 Any Indian or foreign incorporated entity by establishing a branch or a subsidiary

Who are eligible services recipients under the ancillary services framework?

The following are eligible services recipients under the ancillary services framework:

- Entities set up in an IFSC
- Entities from foreign jurisdictions for various permissible ancillary services in the IFSCs in India or overseas
- Indian entities who propose to open, set up or carry out operations in IFSCs or foreign jurisdictions, provided consideration is received in a freely convertible foreign currency

Our comments

Globally, ancillary services in the form of professional services, consultancy firms, audit firms, administrators and trustee services play a vital role in the development of an international finance centre. Pursuant to this framework, global ancillary service providers will be able to set up their units in the IFSC GIFT City, which would contribute to a holistic development of the financial ecosystem in the IFSC GIFT City. A number of consultancy firms and law firms have already set up their units in the IFSC GIFT City under these regulations to provide eligible services to eligible service recipients and have already started to contribute to the growth and development of the IFSC GIFT City ecosystem.

XV. Setting up of international branch campuses or offshore education centres in GIFT City

Background

Considering the huge demand and potential for foreign education in India, the Honorable Finance Minister (FM), in her Budget 2022 speech, announced that world-class foreign universities and institutions would be permitted to offer courses related to financial services in the GIFT City. The FM also deliberated that such institutions would be exempted from domestic regulations, except those by the IFSCA, in order to facilitate the availability of high-end human resources for financial services and technology. In this regard, the central government, vide notification dated 23 May 2022, notified the courses that can be offered in financial management, fintech, science, technology, engineering and mathematics by foreign universities or foreign institutions in an IFSC as 'financial services.'

Pursuant to that, the IFSCA, in its endeavour to develop a comprehensive regulatory framework for the formation of international branch campuses (IBCs) and offshore education centres (OECs) by foreign universities or foreign educational institutions in the IFSC GIFT City, has issued IFSC (Setting up and operation of international branch campuses and offshore education centres) Regulations, 2022, on 11 October 2022. These regulations aim at enabling foreign universities/ other foreign educational institutions to set up IBCs/OECs in an IFSC for offering courses/programmes in the subject areas of financial management, fintech, science, technology, engineering, mathematics, etc.

What are the key objectives of these regulations?

- To enable foreign universities to establish IBCs on a stand-alone basis or in such other form as may be permitted by the Authority or foreign educational institution other than a foreign university to establish an OEC in the IFSC GIFT City
- To make the IFSC GIFT City an international educational centre catering to both Indian and foreign students
- To encourage research in the specified disciplines, including banking, insurance, capital market, funds management, fintech, longevity finance, sustainable finance, quantum computing, etc., to provide high-end human resources in finance, technology and relevant fields
- To put in place an objective and transparent process for the registration of a foreign university/foreign educational institution for offering courses that are accredited in their respective home jurisdiction and duly recognised by the Authority

Key regulatory framework

Applicability

These regulations are applicable to an:

- IBC of a foreign university
- OEC of a foreign educational institution

Who is eligible to set up educational institutions?

1. Foreign university: It should have secured a position within the top 500 in overall global ranking and/or subject ranking in the latest QS World University Rankings.
2. Foreign educational institution: It should be a reputed educational institution in its home jurisdiction.
3. An entity with the financial capability to establish and ensure the continuity of the proposed activities in the IFSC GIFT City
4. An entity with suitable infrastructure facilities to conduct the courses, including research programmes in the IFSC GIFT City

What are the permissible subject areas?

Educational courses in the field of financial management, fintech, science, technology, engineering and mathematics are permitted.

What are the non-permissible activities?

Activities relating to acting as a representative office of the parent institution for conducting any promotional activities for their educational programmes in home jurisdiction or any other jurisdiction outside the IFSC GIFT City.

What are the registration requirements for IBCs or OECs?

- A foreign university or foreign educational institution meeting the eligibility conditions can make an application to the IFSCA.
- The application will be referred to the Committee of Experts constituted by the GIFT City for their appraisal and recommendation.
- Based on the recommendation, the IFSCA may grant an in-principal approval to the applicant, giving it 180 days (extension may be granted for a maximum of 90 days) to set up all required infrastructure and engage necessary manpower, etc.
- The Authority may issue a certificate of registration with or without conditions for a period of five years (renewable for five years at a time with or without any additional condition(s)) on being satisfied upon fulfiling the requisite conditions.

Recognition of the courses

- The courses or programmes conducted by the applicant in the IFSC GIFT City are expected to be identical in all respects to the course or programme conducted by the parent entity in its home jurisdiction.
- An identical degree, diploma or certificate will be conferred upon the students of the IBC or OEC directly by the parent entity in the same manner as it confers to its students for the same course or programme in its home jurisdiction.
- The degree, diploma or certificate issued with respect to courses or programmes conducted in the IFSC GIFT City enjoy the same recognition and status as if they were conducted by the parent entity in its home jurisdiction.

Our comments

The regulation governing the setting up and operations of IBCs and OECs in the IFSC GIFT City would attract Indian and foreign students to pursue higher education of international standards within India at affordable costs. Thus, it would help to retain talent within the country and create skilled manpower at the IFSC GIFT City.

XVI. Tax regime for IFSC units

An IFSC predominantly caters to customers outside the jurisdiction of the domestic economy and deals with the flow of finance, products and services across borders. Generally, an IFSC is considered to be a business-friendly zone, and there are certain tax incentives available to units operating in an IFSC in India under the Indian tax laws.

With successive budget announcements, an IFSC now has an internationally competitive tax regime. To further supplement this, the IFSCA is actively engaging with various stakeholders to put in place a modern and internationally benchmarked tax and regulatory framework.

Key available tax incentives are outlined below.

Particulars	**Description**
Tax incentives available to all the units in an IFSC	• 100% tax exemption for 10 consecutive years out of 15 years. A unit is provided with the flexibility to select any 10 consecutive years out of the 15 years to avail the benefits. • Minimum alternate tax (MAT)/alternate minimum tax(AMT) at 9% of book profits is applicable to a unit in an IFSC subject to prescribed conditions. • MAT/AMT is not applicable to a person opting for the new tax regime. • Interest income payable to a non-resident arising on long-term bonds or rupee-denominated bonds listed only on a recognised stock exchange in an IFSC is chargeable at the reduced rate of 4% (subject to a sunset clause of 30 June 2023). Further, for the said bonds issued on or after 1 July 2023 and listed only on a recognised stock exchange in an IFSC, the interest income payable to a non-resident is chargeable at the rate of 9%. • Interest payable to a non-resident by a unit located in an IFSC in respect of monies borrowed by it on or after the first day of September 2019 is tax-exempt. • Dividend income received by a non-resident from a unit in an IFSC is taxable at the rate of 10%.
Additional tax incentives available to IBUs	• An exemption is given to a non-resident on any income earned on the transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives entered into with an offshore banking unit of an IFSC, fulfiling the prescribed conditions. • Any income distributed to a non-resident on offshore derivative instruments (ODIs) entered into with an offshore banking unit of an IFSC fulfilling the conditions prescribed is exempt. • Income earned by the investment division of an IBU being offshore BU of a non-resident is tax-exempt from the transfer of bonds, global depository receipts (GDRs), rupee-denominated bonds of an Indian company or derivative and other specified securities subject to prescribed conditions.

Particulars	Description
Additional tax incentives available to funds and fund management entities set up in the IFSC GIFT City	• The following incomes earned by the Category III AIF, which are attributable to non-resident investors in the AIF, are exempt from tax: • Income on the transfer of any securities (other than shares in a company resident in India), including derivatives, debt securities and offshore securities • Income from securities issued by a non-resident (not being a permanent establishment of a non-resident in India) and where such income otherwise does not accrue/arise in India • Income from a securitisation trust chargeable under the head 'profits and gains of business or profession,' to the extent such income is accrued or arisen to or is received, is attributable to units held by a non-resident or is attributable to the investment division of offshore banking unit, as the case may be • Income on the transfer of specified securities listed on a recognised stock exchange located in an IFSC where consideration for such transaction is in convertible foreign exchange. The specified securities covered are as under: (a) Bond or global depository receipt (b) Rupee-denominated bond of an Indian company (c) Derivative (d) Such other securities as may be notified by the central government on this behalf Further, GOI vide notification dated 5 March 2020 had notified various other securities as below: (i) Foreign currency-denominated bond (ii) Unit of a mutual fund (iii) Unit of a business trust (iv) Foreign currency-denominated equity share of a company (v) Unit of alternative investment fund • Surcharge and cess are not applicable while computing advance tax on the prescribed income earned by Category III AIF in an IFSC, subject to conditions prescribed. • Certain conditions prescribed for opting safe harbour regime under Section 9A of the Act for offshore funds managed by an onshore fund manager located in an IFSC are relaxed, provided that the operations have commenced on or before 31 March 2024.
Other tax incentives available in an IFSC	**Exemption to the unit holder of specified fund** Income accruing or arising to a unit holder from a specified fund or on the transfer of units in the specified fund is exempt from tax. **Exemption on the relocation of funds to an IFSC** To encourage migration of offshore funds to an IFSC, currently, a tax exemption is available to offshore funds and their unit holders and shareholders on the transfer of capital assets of the offshore fund (or of its wholly-owned special purpose vehicle) on account of relocation undertaken up to 31 March 2025.

Goods and Service Tax (GST)

- No GST on services
  - Received by a unit in IFSC
  - Provided to IFSC/SEZ units or overseas clients
- GST applicable on services provided to the Domestic Tariff Area (DTA)

XVII. Glossary of terms

AIF	Alternative Investment Fund
AML	Anti-money Laundering
AMT	Alternate Minimum Tax
AUM	Asset Under Management
BDR	Bullion Depository Receipt
CMI	Capital Market Intermediaries
CRR	Cash Reserve Ratio
DGFT	Directorate General of Foreign Trade
DPIIT	Department for Promotion of Industry and Internal Trade
DTA	Domestic Tariff Area
EC	Expert Committee
ECB	External Commercial Borrowing
ESG	Environmental, Social and Governance
ETFs	Exchange Traded Funds
FATF	Financial Action Task Force
FC	Finance Company
FE	Fintech Entity
FEMA	Foreign Exchange Management Act
FIS	Fintech Innovation Sandbox
FME	Fund Management Entity
FPI	Foreign Portfolio Investor
FRS	Fintech Regulatory Sandbox
FU	Finance Unit
GAO	Global Administrative Office
GDR	Global Depository Receipt
GIC	Global In-house Centre
GIFT City	Gujarat International Finance Tec-city
GOI	Government of India
GST	Goods and Service Tax
IBC	International Branch Campuses
IBE	International Bullion Exchange
IBUs	IFSC Banking Units
IFSC	International Financial Service Centre
IFSCA	International Financial Service Centre Authority
IIBX	India International Bullion Exchange IFSC Limited
IIIO	IFSC Insurance Intermediary Office
IIO	IFSC Insurance Office
India INX	India International Exchange (IFSC) Limited
InvITs	Infrastructure Investment Trust
IoRS	Inter-operable Regulatory Sandbox
IoT	Internet of Things
IRDAI	Insurance Regulatory Development Authority of India
KYC	Know Your Customer
LCR	Liquidity Coverage Ratio
LR	Leverage Ratio
LRS	Liberalised Remittance Scheme
MAT	Minimum Alternate Tax
MNC	Multinational Corporation
MOU	Memorandum of Understanding
NDF	Non-deliverable Forward
NOF	Net Owned Funds
NSE	National Stock Exchange
NSFR	Net Stable Funding Ratio
OEC	Offshore Education Centres
PFRDAI	Pension Fund Regulatory Development Authority of India
PMS	Portfolio Management Services
POC	Proof of Concept
RBI	Reserve Bank of India
RDRR	Retail Deposit Reserve Ratio
REITs	Real Estate Investment Trusts
RO	Representative Office
RSE	Recognised Stock Exchange
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SLR	Statutory Liquidity Ratio
SMEs	Small and Medium Enterprises
TPA	Third-party Administrator
VC	Venture Capital
WHT	Withholding Tax
WOS	Wholly-owned Subsidiary

XVIII. Contribution and acknowledgments

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