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## Development of the Insurance Landscape in GIFT City India

### Introduction



In April 2015, the Gujarat International Finance Tec-City, popularly known as “GIFT City”, was established by the Indian government to potentially serve as a global hub for economic activity. With a state-of-the-art infrastructure and a regulatory regime designed according to global benchmarks for improving ease of doing business<sup>[1]</sup>, various industry stakeholders believe that GIFT City is well positioned to carve its place in the financial world.

Within GIFT City and nestled in a multi-services Special Economic Zone (SEZ), the Indian government has established an International Financial Services Centre (IFSC) to cater to financial services. A domestic area separate from the SEZ, referred to as the Domestic Tariff Zone (DTA), sits alongside and houses the social infrastructure within GIFT City.

In its pursuit to gain global prominence, GIFT City has witnessed various entities engaged in financial services such as banking and insurance setting up units in the IFSC. Prior to 2020, these entities continued to be regulated by their respective regulators<sup>[2]</sup>, albeit subject to some relaxed norms<sup>[3]</sup>. However, in order to synchronize their regulatory oversight and establish a dedicated framework<sup>[4]</sup>, the International Financial Services Centres Authority Act 2019 (IFSCA Act) was enacted, creating the International Financial Services Centres Authority (IFSCA) as a unified regulator for the IFSC in April 2020.

<sup>1</sup> Please see: <https://www.giftgujarat.in/>, last accessed on 27 September 2023.

<sup>2</sup> The regulators include are the IRDAI, the PFRDA, the SEBI and the RBI.

<sup>3</sup> As an illustration, at that time, insurance companies and intermediaries within the IFSC continued to be regulated by the Insurance Regulatory and Development Authority of India (“IRDAI”) under its *erstwhile* guidance, such as the IRDAI (Regulation of Insurance Business in Special Economic Zone) Rules 2015, the IRDAI (International Financial Services Centre) Guidelines 2015, the IRDAI (Registration and Operations of International Financial Service Centre Insurance Offices (IIO)) Guidelines 2017, and the IRDAI (International Financial Service Centre Insurance Intermediary Offices) Guidelines 2019 along with various circulars.

<sup>4</sup> Statements and Objects of the IFSCA Act.

In relation to insurance and reinsurance business, the IFSCA notified the IFSCA (Registration of Insurance Business) Regulations 2021 (IIO Regulations), which outline the registration and operations of Insurers and reinsurers as IFSC Insurance Offices (IIOs)<sup>[5]</sup> within GIFT City<sup>[6]</sup>.

### ***Scope and Applicability***

The IIO Regulations permit various applicants, including Insurers registered with the IRDAI, foreign insurers and reinsurers, foreign reinsurance branches (FRBs), Indian public companies or wholly owned subsidiaries of an Insurer or a reinsurer registered under the (Indian) Companies Act 2013, cooperative societies, foreign public companies, and Managing General Agents with valid binding agreements with foreign insurers or reinsurers<sup>[7]</sup>, to register with the IFSCA and commence the business of insurance or reinsurance in the IFSC as an IIO. Such place of business may be set up in either an unincorporated form or in an incorporated form, depending on the eligibility conditions being met<sup>[8]</sup>.

### ***Permitted Business***

Registered IIOs are permitted to engage in various lines of insurance business, including life, general, health or reinsurance, per their registration in their home country. A few conditions apply:

- (a) IIOs registered as “*place of business of an Indian Insurer or branch office of foreign Insurer or reinsurer*” are limited to transacting only such class of business as permitted by their home country regulatory authority<sup>[9]</sup>.
- (b) IIOs registered as direct Insurers may transact direct insurance business with individuals or entities within the IFSC (including any other SEZs) and also from outside India, but not from the DTA (*ie*, the rest of India, excluding SEZs)<sup>[10]</sup>.
- (c) However, IIOs registered as reinsurers are permitted to accept reinsurance business from cedants based in the IFSC<sup>[11]</sup> and from outside India, as well as from the rest of India (per the Order of Preference prescribed by the IRDAI and discussed below)<sup>[12]</sup>.

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<sup>5</sup> R2 of the IIO Regulations and ¶1 of the IIO Guidelines.

<sup>6</sup> While this article explores only the framework governing IIOs, for completeness, please note that the IFSCA has also notified the IFSCA (Insurance Intermediary) Regulations 2021 to govern registration and operations of insurance intermediaries in the IFSC, *ie*, as IFSC Insurance Intermediary Offices.

<sup>7</sup> R3(1)(b) of the IIO Regulations.

<sup>8</sup> R5 of the IIO Regulations.

<sup>9</sup> R10 of the IIO Regulations.

<sup>10</sup> R13 and R14 of the IIO Regulations.

<sup>11</sup> This includes the risks emanating from other SEZs.

<sup>12</sup> R15 of the IIO Regulations.

## ***Order of Preference***

Notably, the IRDAI has recently amended the *erstwhile* Order of Preference prescribed in the IRDAI (Re-insurance) Regulation 2018, by way of the IRDAI (Re-insurance) Amendment Regulations 2023. This amendment elevates IIOs<sup>[13]</sup> to the same category as FRBs (and only below the Indian reinsurer *ie*, GIC Re) as compared to the previous Order of Preference, where IIOs were placed below Indian reinsurers and FRBs. This change expands opportunities for IIOs to participate in cessions from Indian Cedants.

## ***Other Key Points***

IIOs can transact business in freely convertible foreign currencies, excluding Indian Rupees, with such persons as may be permitted by the IFSCA, whether resident in India or elsewhere<sup>[14]</sup>. The IIO Regulations lay down detailed pre-requisites and requirements for setting up an IIO, including criteria for minimum capital, net owned funds and solvency margin. Foreign applicants must hail from jurisdictions with Double Taxation Avoidance Agreements with India and adhere to Financial Action Task Force standards.

It is worth noting that while the IIO Regulations do not expressly mandate approval from the SEZ authority, applicants are still required to provide a proof of such approval (*ie*, a Letter of Approval under the Special Economic Zones Act 2005 and the rules thereunder) when submitting their application forms<sup>[15]</sup>. However, certain applicants who are required to complete Form D (*ie*, Indian public company, wholly owned subsidiary of Insurer or reinsurer, insurance co-operative society, and foreign public company) are exempt from this requirement<sup>[16]</sup>.

Further, the IFSCA has issued guidance for IIOs, addressing various operational matters, such as the IFSCA (Operations of IFSC Insurance Offices) Regulations 2021, the IFSCA (Appointed Actuary) Regulations 2022, the IFSCA (Manner of Payment and Receipt of Premium) Regulations 2022, and the IFSCA (Insurance Products and Pricing) Regulations 2022. Additional norms are expected to be notified in due course.

## ***Concluding Remarks***

The business environment and regulations set up for GIFT City, coupled with recent regulatory adjustments, such as the revised ranking of IIOs in the Order of Preference, have the potential to garner the interest of global insurers and reinsurers looking to establish operations in GIFT City.

Its regulator, vested with the authority to regulate and shape permissible business activities

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<sup>13</sup> Please note that the IIOs that invest 100% of its retained premiums, emanating from Insurers in India, in the DTA are placed in Category 2 along with the FRBs. The other IIOs are placed in Category 3.

<sup>14</sup> R11 of the IIO Regulations.

<sup>15</sup> First Schedule of the IIO Regulations.

<sup>16</sup> First Schedule of the IIO Regulations.

in GIFT City, appears well-positioned to lay the groundwork for a burgeoning financial ecosystem in the area.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

For further information on this topic please contact Tuli & Co

Tel +91 120 693 4000, Fax +91 120 693 4001 or Email [lawyers@tuli.co.in](mailto:lawyers@tuli.co.in)

[www.tuli.co.in](http://www.tuli.co.in)



**Celia Jenkins**

Partner



**Anuj Bahukhandi**

Managing Associate



**Priti Singh**

Associate