

To,

Division of Insurance  
Department of Insurance and Pensions  
International Financial Services Centres Authority  
2<sup>nd</sup> & 3<sup>rd</sup> floor, Pragya Tower, Block 15, Zone 1,  
Road 1C, GIFT SEZ, GIFT City, Gandhinagar,  
Gujarat – 382050

For the attention of:

Mr K Mahipal Reddy, Executive Director, Department of Insurance and Pensions, IFSCA  
Mr Bhaskar Khadakhavi, General Manager, Division of Insurance, IFSCA  
Mr Rishi Kale, Manager, Division of Insurance IFSCA  
Mr Nitin Gupta, Assistant Manager, Division of Insurance, IFSCA

**Subject: Request for Informal Guidance by way of Interpretative Letter under the International Financial Services Centres Authority (Informal Guidance) Scheme, 2024 (“Informal Guidance Scheme”) by [REDACTED] [REDACTED] in relation to regulatory framework for International Financial Service Centre Insurance Offices (“IIOs”) through Managing General Agent (“MGAs”) in International Financial Services Centre (IFSC)”**

Dear Sirs,

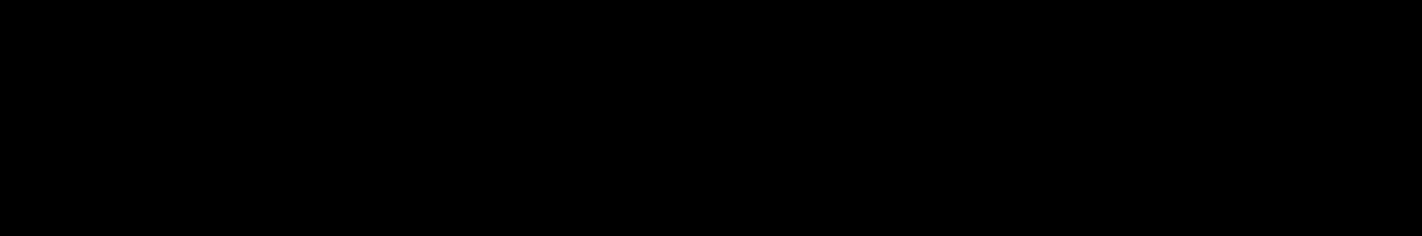
Greetings from [REDACTED] “Company” or “we”!

[REDACTED] We are exploring the possibility of entering the Indian reinsurance industry, through an MGA in GIFT City IFSC, India’s first operational IFSC. We are also in discussions with a company in India who is looking to set up an MGA in GIFT City with [REDACTED] being the foreign reinsurer or capacity provider (“Foreign Reinsurer”).

In this regard, [REDACTED] seeks to understand certain key issues relating to the regulatory framework for capacity providers of MGAs and accordingly seeks informal guidance by way of Interpretative Letter from the International Financial Services Centres Authority (“Authority”) in the manner prescribed under the Informal Guidance Scheme:

<b>Name of the Applicant</b>	[REDACTED]
<b>Category of Applicant</b> <b>(In case of regulated entity,</b> <b>specify the entity’s details</b> <b>(e.g., Bu’s/MII/FME/FC/FU/CMI etc.)</b>	International Financial Service Centre Insurance Office (IIO) through Managing General Agent (MGA)

<b>If guidance is sought in representative capacity, details thereof</b>	The guidance is being sought by [REDACTED] in its own capacity.
<b>Nature of informal guidance</b>	No – action Letter <input type="checkbox"/> Interpretative Guidance <input checked="" type="checkbox"/>
<b>Details of fee paid</b>	USD 1000
<b>Details of the transaction (Including account details of the applicant, for making refunds, in cases of rejection of request)</b>	[REDACTED]
<b>Relevant regulatory provisions</b>	International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
<b>Query (If needed, background and factual details may be enclosed in brief, as an Annexure to this application)</b>	Attached herewith as ‘Annexure A’
<b>Whether confidentiality is required</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Contact details of the Applicant</b>	[REDACTED]



In view of the above, we humbly request you to kindly provide us with clarity and guidance on the extant regulatory framework and consider the enclosed queries for setting up of an IIO in GIFT City IFSC through an MGA under the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021 (“**IFSCA IIO Regulations**”).

We thank you for your consideration and guidance and look forward to hearing from you.

Should you require any further information, we are at your disposal.

**Yours sincerely,**



## Annexure A

The Company seeks informal guidance on the following queries:

### 1. Reporting obligations under applicable IFSCA regulations:

Under the IFSCA IIO Regulations applicable to MGAs, we understand that the primary obligation with respect to ongoing compliances and reporting will be on the MGA and not the Foreign Reinsurer. It is our understanding that the filing with respect to solvency, assigned capital, maintenance of Net Owned Funds (NOF) will have to be done by the Foreign Reinsurer. However, such compliances will be undertaken through the MGA and the Foreign Reinsurer will only be directed to furnish these reports if MGA is unable to submit such reports in a timely/prescribed manner.

May we request you to confirm if this understanding is correct?

### 2. Retrocession of reinsurance business or repatriation of premium

a. As per international practice, MGAs do not retain premiums as they are not the risk carriers. Since MGAs underwrite business on behalf of its capacity providers, premiums are transferred to respective capacity providers/reinsurers without any retention other than the agreed overriding commission or fee. In context of IIOs set up through MGA in GIFT City, it is our understanding there would be no limitation on MGAs to transfer the full premium to the risk carrier/capacity provider, as the latter could have existing retrocession arrangements that need to be honoured.

Is the above understanding, correct?

b. In case of the premiums that is transferred to the home office of IIO, is there any specific requirement of the regulator that the Foreign Reinsurer should deal with such premiums in a particular manner. For example, does the Authority require the premium to be invested in a particular way?

We have not come across any provision in this regard in the regulations. However, we wish to clarify the position with the Authority.

c. Any specific restrictions or conditions on the use of CBR or foreign reinsurer for retrocession?

### 3. Investment requirements

Can the Foreign Reinsurer invest premiums in home country as per home country regulations? When can such investments be withdrawn?

In case the investments are required to be domiciled in India, how will it be invested as the Foreign Reinsurer does not have a legal presence in India.

### 4. International Business

As per our understanding, the proposed regulations on retrocession / investment are applicable to premiums generating out of Indian accounts/business only and not on international business (i.e business emanating from outside India) written by the MGA

May we request you to confirm if this understanding is correct?

### 5. Delegated Authority Arrangements or Binders:

We understand that the Foreign Reinsurer and the MGA have the liberty to determine the terms of the delegated authority arrangements or binders. We also understand that so long as the terms of the binding arrangement do not violate the provisions of the IFSCA regulations, the parties are free to determine the extent of authority being

delegated to the MGA by the Foreign Reinsurer. There is no mandatory requirement of delegating certain minimum authority to the MGA. In this regard, may we seek guidance of the Authority on the following:

- a. Can the binder or delegated authority agreement provide a mechanism whereby the Foreign Reinsurer plays an active role in underwriting process of the MGA.
- b. Can the binder or delegated authority agreement provide a mechanism whereby the Foreign Reinsurer plays an active role in claim settlement process of the MGA.

We understand that the Authority may not have any concern in this regard. However, we will be grateful if the Authority is able to clarify the position on the above two questions?

**6. Monitoring of Limits:**

Under the IFSCA Regulatory Framework, there are some restrictions on investment and retrocession.

- a. We understand that the restrictions will be calculated based on annual GWP on written basis (not on earned basis) and there will be no monthly or quarterly assessment in this regard. May we request the Authority to confirm the position.
- b. Are there specific forms, disclosures, or reports that need to be submitted by the MGA or Foreign Reinsurer in this regard?

**7. Tax treatment of Foreign Reinsurer?**

We understand that the Foreign Reinsurer will not be a "unit" under the SEZ and IFSCA regulations and therefore the Foreign Reinsurer is not subject to taxation in India, similar to a CBR. If the Foreign Reinsurer does not have a presence in GIFT IFSC, will the income of the Foreign Reinsurer be taxed in India?

However, the MGA is eligible for tax benefits given that MGA is incorporated/registered as a unit in GIFT IFSC.

Is our understanding correct?

**8. Repatriation of Surplus**

The IFSCA Regulatory Framework does not stipulate any restriction on repatriation of funds by the IIO/MGA to the Foreign Reinsurer. We further understand that there is no regulatory approval required before repatriation of funds by the IIO/MGA to the Foreign Reinsurer or Capacity Provider.

May we request you to confirm if this understanding is correct?

**9. Closure of IIO and withdrawal of capacity:**

India is an important market for the Foreign Reinsurer and they are committed to grow alongside their partners and cedants in India. However, in the unanticipated event of a change in external factors or other reasons outside their control, if they decide to withdraw their capacity or close the IIO/MGA, prior regulatory approval is necessary. Apart from seeking confirmation (evidence) that the Foreign Reinsurer has met all its valid and subsisting liabilities (towards cedants and statutory/regulatory authorities), will there be anything specific that the Authority may require from a foreign Reinsurer as a Capacity Provider.

May we request the Authority to provide the guidance in this regard.

Further, the MGA will have to be wound up as per company law provisions after the Authority allows the closure of MGA. May we request the Authority to confirm the position.