

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY

6th Meeting of the Authority held on 15th March, 2021

Gist of Agenda Item: Draft International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021

Draft International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 have been circulated for the consideration and approval of the Authority at the sixth Authority meeting scheduled on 15th March 2021. The draft regulations are based on the following broad principles:

1. Objective

- 1.1. This memorandum seeks approval of the Authority to notify the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 (“MII Regulations”).

2. Background

- 2.1. The stock exchanges, clearing corporations and depositories (collectively referred as market infrastructure institutions /MIIs) play an important role by providing the necessary infrastructures for ensuring that the markets are fair, efficient, orderly, and transparent and providing the platform for trading of various products in the securities market with appropriate risk management in place.
- 2.2. Currently, the MIIs in IFSC are regulated by a combination of Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 (“IFSC Guidelines”), Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 (“SECC 2018”), Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 (“DNP Regulations”) and circulars made thereunder.
- 2.3. Considering the importance of MIIs in the International Financial Services Centres (IFSC) ecosystem, the International Financial Services Centres Authority (“Authority”) had issued a consultation paper on the proposed unified regulations for

MIIs with the objective of creating a simplified regulatory framework so as to promote ease of doing business in IFSC.

2.4. Comments have been received from 6 stakeholders (2 stock exchanges, 2 clearing corporations, 1 depository and 1 other stakeholder).

2.5. Subsequent to the comments received from the stakeholders, the draft MII Regulations have been revised.

3. **Proposed MII Regulations**

3.1. The salient features of the proposed MII Regulations are as follows:

A. Shareholding

a) The shareholding of MIIs operating as a subsidiary in IFSC shall be in the following manner:

MII	Without consortium		With consortium	
	Held by	%	Held by	%
Stock exchange	Stock exchange	At least 26	Consortium of MIIs	At least 51
	Any other person	Upto 25	Any other person	Upto 25
Clearing Corporation	Stock exchange or clearing corporation	At least 26	Consortium of MIIs	At least 51
	Any other person	Upto 25	Any other person	Upto 25
Depository	Depository	At least 26	Consortium of MIIs	At least 51
	Any other person	Upto 25	Any other person	Upto 25

b) The consortium shall be of MIIs and the stock exchange(s) shall have 51% or more shareholding within the consortium.

c) The proposed shareholding norms would facilitate dispersed shareholding of the MIIs.

d) A depository registered with SEBI may operate as a depository in an IFSC in the form of branch, subject to the depository ring fencing its operations in IFSC.

- e) The acquisition of shareholding or voting rights by any person of 10 per cent or more in recognised MIIs shall be with the prior approval of the Authority.
- f) The MIIs in IFSC shall be required to put in place an adequate monitoring mechanism to ensure compliance with the shareholding requirements and shall be required to submit their shareholding pattern to the Authority on a quarterly basis.
- g) A recognised market infrastructure institution may apply for listing of its securities on any stock exchange pursuant to approval of the Authority.

B. Net Worth

- a) A recognised market infrastructure institution shall have net worth of at least USD 3 million at all times. Further, if required, as a risk management measure, the Authority may prescribe higher net worth for a recognised MII based on the nature and scale of business of the entity
- b) A recognised market infrastructure institution shall submit an audited net worth certificate from the statutory auditor on a yearly basis by the thirtieth day of September of every year for the preceding financial year, to the Authority.

C. Governance: Currently, the governance norms provided under the SECC 2018 and DNP Regulations are not applicable on the recognised MIIs in IFSC provided that they adopt the broader principles of governance prescribed under the CPMI - IOSCO Principles for Financial Market Infrastructures. Considering the significance of MIIs in IFSC, it is proposed that governance norms may be prescribed for MIIs, including the following:

- a) The governing board of a recognised market infrastructure institution shall include shareholder directors, public interest directors, and managing director, subject to the following:
 - i. The chairperson shall be elected by the governing board from amongst the public interest directors;

- ii. The number of public interest directors shall not be less than the number of shareholder directors;
- iii. The managing director shall be included in the category of shareholder directors;
- iv. Any employee of a recognised stock exchange or recognised clearing corporation may be appointed on the governing board in addition to the managing director and such director shall be deemed to be a shareholder director;
- v. The trading members or clearing members in an IFSC or their associates and agents (except persons on board of a schedule commercial bank or a public financial institution) shall not be on the governing board of a recognised stock exchange or a recognised clearing corporation;
- vi. The appointment of directors of a recognised market infrastructure institution shall be subject to the prior approval of the Authority and the fulfilment of other requirements as may be specified by the Authority.
- vii. Public interest director shall be nominated for a term of three years, extendable by another term of three years subject to performance review as may be specified by the Authority;
- viii. The appointment of managing director shall be for a term not exceeding five years subject to maximum age limit of 70 years.

Provided that the managing director may be re-appointed subject to approval of the Authority.

- b) The roles and responsibilities of the governing board of a recognised market infrastructure institution should be clearly specified and the procedures for its functioning, including procedures to identify, address, and manage conflicts of interest should be documented.

- c) The governing board of a recognised market infrastructure institution shall review the overall performance and the performance of its individual directors regularly.
- d) Every director and key management personnel of a recognised market infrastructure institution shall abide by such Code of Ethics and Code of Conduct as may be specified by the Authority.
- e) A recognised market infrastructure institution shall constitute such committees as may be specified by the Authority from time to time.
- f) A recognised market infrastructure institution shall adopt an appropriate policy to segregate its regulatory departments from other departments.

D. General obligations for recognised stock exchanges and clearing

corporations: The stock exchanges / clearing corporations in IFSC shall be required to comply with the requirements in respect of clearing and settlement of trades, admission of securities, investor education and protection fund (as may be specified by the Authority), settlement guarantee fund, trading hours and settlement, risk management, halting trading by stock exchanges, co-location by stock exchanges, business continuity plan and disaster recovery, utilization of profits and investments, equal, fair and transparent access, maintenance of books of accounts and records, bye-laws and rules, settlement and netting, obligations of clearing corporations in commodity derivatives, and right of clearing corporation to recover dues.

E. General obligations for recognised depositories: The depositories in IFSC shall be required to comply with the requirements in respect of securities eligible for dematerialisation, agreement between depository and participants, agreement between depository and issuers, systems and procedures, connectivity, mechanism for investor protection, withdrawal by participants, risk management, business continuity plan and disaster recovery, maintenance of records, co-operation, pledge and equal, fair and transparent access.

F. Miscellaneous: Additionally, the MII Regulations have provisions relating to:

- a. Maintenance of website by recognised MIIs;
- b. Record keeping in electronic retrieval form for a minimum of twenty years;
- c. Mandatory requirement for MIIs to appoint compliance officer;
- d. Furnishing of returns and reports, including submission of annual financial statements and returns by the thirtieth of September of every year to the Authority;
- e. Authority's powers to call for any information, documents or record from recognised MIIs;
- f. Authority's powers to undertake inspection, conduct inquiries and audit of any market infrastructure institution, its associates or any of its shareholders;
- g. Authority's powers to issue directions;
- h. Authority's powers to appoint an auditor to inspect or investigate MIIs;
- i. Authority's entitled to recover expenses of the auditors from the MIIs;
- j. Authority's powers to remove difficulties;
- k. Authority's powers to relax strict enforcement of the regulations;
- l. Authority's powers to specify procedures and issue clarifications;
- m. Repeal and Savings.

4. Proposal

4.1. Approval of the Authority is sought for notifying the draft International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021 in the Official Gazette, after carrying out changes, if any, of drafting and consequential nature. The Authority is further requested to authorize the Chairperson to make such necessary, consequential and incidental steps to operationalize the MII Regulations.