

## Public Comments on draft IFSCA (Bullion Market) Regulations, 202x

The Consultation Paper seeking comments/suggestions from the public on the draft IFSCA (Bullion Market) Regulations, 202x was issued by IFSCA on August 31, 2024. The following comments/suggestions were received:

S No.	Regulation no. as per Annexure-I of the Consultation Paper	Text of Regulation/ Sub-regulation	Comments/Suggestions	Rationale
1	2 (1) (f)	<p>“bullion” shall 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 good delivery, quality, quantity, and any other aspect in relation to bullion trading from time to time;</p>	To include word <b>“grains”</b> after bars to enable silver grains	DGFT has permitted Silver Grains to be imported through IIBX.
2	5 (1)	<p>The applicant is demutualized</p> <p>Explanation: - For the purposes of the sub-clause (b) of this regulation, the term “demutualised” means ownership and management of the applicant is segregated from the trading rights or clearing rights, as the case may be.</p>	The Qualified Jewellers and Qualified Suppliers who are Non-Trading and/or Non-Clearing Members on IIBX may not be restricted from subscribing to the equity of the Exchange. This can however be subjected to a maximum capping of 5% of the paid up capital.	There in no restriction on a client from buying the equity of a listed Stock or Commodity Exchange like BSE or MCX.

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3	5 (2)	<p>An applicant seeking recognition as a bullion exchange shall, in addition to the conditions as specified in sub-regulation (1), comply with the following conditions, namely:-</p> <p>.....</p> <p>(k) any other conditions as may be specified by the Authority.</p>	<p>An applicant seeking recognition as a bullion exchange shall, in addition to the conditions as specified in sub-regulation (1), comply with the following conditions, namely:-</p> <p>.....</p> <p>(k) adequate Consumer Education and Protection Fund;</p> <p>(l) any other conditions as may be specified by the Authority.</p>	<p>The Regulations provides for the conditions for an applicant to seek recognition as bullion exchange. The proposed regulations have done away the requirement for having adequate Consumer Education and Protection Fund, as a primary condition for seeking recognition, although provided separately under Regulation 37. The requirement for Consumer Education and Protection Fund was provided in the IFSCA (Bullion) Regulations, 2020 (“2020 Regulations”) as well as provided by other regulators as well The purpose of such fund was always to have a corpus in place to deal with any defaults by the Bullion Trading Member. Further, please clarify if the bullion exchange which has already set up in IFSC will have the option to not maintain such fund in case the suggested regulation is notified.</p>
4	10	<p>Withdrawal of Recognition: The recognition granted to a bullion exchange or a bullion clearing corporation may be withdrawn in the manner provided under Section 5 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).</p>	<p>Withdrawal of Recognition: The recognition granted to a bullion exchange or a bullion clearing corporation may be withdrawn by the Authority after following the process provided under Section 5 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).</p>	<p>Section 5 of the Securities Contracts (Regulation) Act, 1956 provides for the withdrawal of recognition by the Central Government. We recommend a clarity is provided in the regulation whether the withdrawal of recognition can be done by Central Government or the Authority.</p>

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5	18	<p>Orderly winding down: (1) Every bullion clearing corporation shall devise and maintain a framework for orderly winding down of its critical operations and services covering both voluntary and involuntary scenarios.</p> <p>(2) Every bullion clearing corporation shall ensure the framework provides for:-</p> <p>(a) the timely and orderly settlement or cessation or transfer of position(s), and/or;</p> <p>(b) the transfer of the collateral(s) or deposit(s) or margin(s) or any other asset(s) of the members to another recognised bullion clearing corporation that would take over the operations of the bullion clearing corporation, and/or;</p> <p>(c) such other related matter.</p>	<p>The mandate for framework for orderly winding down is to be extended to Bullion Exchanges as well.</p>	<p>Bullion Exchanges forms very critical part of the entire bullion ecosystem. There may be some involuntary scenarios where a bullion exchange might need to wind down its certain operations. In such case, a handy framework for orderly winding down can be very helpful.</p>
6	30 (3)	<p>Appointment of Managing Director: .....</p> <p>Provided further that a person may be appointed as the Managing Director by the recognized bullion exchange or recognized bullion clearing corporation for a maximum period of ten years, subject to a maximum age limit of sixty five years.</p>	<p>Appointment of Managing Director: .....</p> <p>Provided further that a person may be appointed as the Managing Director by the recognized bullion exchange or recognized bullion clearing corporation for a maximum period of ten years, subject to a maximum age limit of sixty five seventy five years.</p>	<p>The public interest directors under the proposed Regulation 29(3) are appointed subject to a maximum age limit of seventy-five years. Therefore, we suggest that the appointment of the Managing Director be allowed to until the age of seventy five years.</p>
7	38 (1)	<p><b>Settlement Guarantee Fund</b></p>	<p>Settlement Guarantee Fund may kindly be defined</p>	<p>Settlement Guarantee Fund may be defined and also to be followed up with the IT department for exemption of such fund under the IT Act as is given for SGF created under the SEBI regulations.</p>

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8	46 (1)	A bullion depository shall enter into an agreement with one or more participants as its agent.	A bullion depository may enter into an agreement with one or more participants as its agent.	As the ecosystem was in its nascent stage and envisaged bullion clientele was not very large, bullion depository was allowed to perform the role of participant as well. Providing flexibility and not mandating depository and participant structure will facilitate the existing model of bullion depository to be compliant with regulations.
9	47	Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye- laws, with any bullion depository for availing its services.	Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye- laws, with any bullion depository for availing its services.	As the eco system was in its nascent stage and envisaged bullion clientele was not very large, bullion depository was allowed to perform the role of participant as well. Providing flexibility and not mandating depository and participant structure will facilitate the existing model of bullion depository to be compliant with regulations.
10	49	Bullion depository receipts to be in fungible form. All bullion depository receipts issued by a bullion depository shall be in dematerialised form	This needs a review as current process has bar/bag number congruence with each bullion depository receipt number)	Bullion depository receipts created by depository in lieu of physical bullion stored with empanelled vaults currently has the unique congruence of bullion bar/bag number to bullion depository receipt. And hence essentially bullion depository receipts are not fungible.
11	55 (5)	Registration of Vault Managers - The registration granted shall be subject to annual renewal as per the procedure specified by the Authority.	Registration is one time and valid till cancellation due to anything adverse found against the vault under operation or vault manager.	
12	58 (2)	(b) vault registration number and date up to which it is valid; (i) date and signature of the vault manager or his authorised agent;	(b) To exclude date of validity of vault.  Vault manager to maintain an electronic record of delivery of BDR report sent to BO	Vault registration has no validity.  Vault managers feedback providing physical BDR report with date and signature of vault manager involves physical paperwork and handling leads to ineffective process instead should be allowed to intimate in electronic form.

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13	59 (1)	<p>Depositing bullion into vaults</p> <p>(1) A depositor shall place a request for the deposit of the bullion, with a vault empaneled by a bullion depository.</p>		As the eco system was in its nascent stage and envisaged bullion clientele was not very large, bullion depository was allowed to perform the role of participant as well. Providing flexibility and not mandating depository and participant structure will facilitate the existing model of bullion depository to be compliant with regulations.
14	59 (3)	(3) At the time of deposit of the bullion, the vault manager shall employ the services of an assayer, with the prior approval of the Authority, for the purposes of testing the good delivery standard of the bullion.	The vault manager shall employ the services of an assayer with the prior approval of the Authority in case of dispute for the purposes of testing the good delivery standard of the bullion.	Employing assayer services at the time of deposit of bullion results in additional costs and turnaround time for bdr creation for the vault manager. Currently no such system is followed. Therefore, only in case of disputes assayer services to be employed.
15	59 (3)	At the time of deposit of the bullion, the vault manager shall be required to employ the services of an assayer , if the Authority so desires, for the purposes of testing the good delivery standard of the bullion.	This would mean that vault manager takes the responsibility on the weight and purity of gold, whereas global standard is vault manager accepts it on as reported basis. To mitigate such risks only refiner to vault and those vaults to another recognised vault transfers allowed. Thus this section is to be reconsidered.	
16	61 (1)	<p><b>Withdrawal of Bullion</b></p> <p>On the receipt of a request for the withdrawal of bullion from a beneficial owner through a participant, the bullion depository shall grant an approval and intimate the same to the concerned vault manager.</p>		As the eco system was in its nascent stage and envisaged bullion clientele was not very large, bullion depository was allowed to perform the role of participant as well. Providing flexibility and not mandating depository and participant structure will facilitate the existing model of bullion depository to be compliant with regulations.

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17	63 (2)	<p>Requirement of 'fit and proper': For the purposes of sub-regulation (1), a person shall be deemed to be a fit and proper person if:</p> <p>.....</p> <p>(b) such person has not incurred any of the following disqualifications –</p> <p>.....</p> <p>(vi) a recovery proceeding has been initiated against the person by a financial regulatory authority that is pending.</p>	<p>Requirement of 'fit and proper': For the purposes of sub-regulation (1), a person shall be deemed to be a fit and proper person if:</p> <p>.....</p> <p>(b) such person has not incurred any of the following disqualifications –</p> <p>.....</p> <p>(vi) a recovery proceeding has been initiated against the person by a financial regulatory authority that is disposed finally.</p>	<p>The proposed regulation has included any pending recovery proceeding by a financial regulatory authority as a disqualification for 'fit and proper' criteria. It should only include the recovery proceedings which have been finally disposed off.</p>

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18	63 (2)	<p>Reg. 63 (1) .....</p> <p>(2) For the purposes of sub-regulation (1), a person shall be deemed to be a fit and proper person if:</p> <p>(b) such person has not incurred any of the following disqualifications –</p> <p>(iv) ..... and a period of three years from the date of the expiry of the period specified in the order has not elapsed;</p> <p>(v) ..... and a period of three years from the date of the order has not elapsed;</p> <p>Further, as per Reg. 65: If any question arises on the decision of a bullion exchange, bullion clearing corporation, bullion depository or vault manager as to whether a person is a fit and proper person, the Authority's decision on such question shall be final.</p>	<p>This clause refers to "Fit &amp; Proper" criteria for Directors, KMPs and Material Shareholders for Bullion Exchange/Clearing/Depository/Vault. While this full chapter XIV also applies verbatim to Members &amp; QJs seeking to get onboarded at IIBX. It is recommended to re-look at Fit &amp; Proper requirements for Members &amp; QJs.</p> <p>The applicability of this clause to Members and QJs may be reconsidered.</p> <p>Further, reg. 65, may be made applicable to the intermediaries, in addition to reg. 63, so that the decision of the authority shall be final, if any question arises on the decision.</p>	<p>As per SEBI Stock Brokers Reg 2008_amended upto June 2024:</p> <p>Reg 5(e): (e) (Applicant Broker) is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008;</p> <p>As per SEBI (Intermediaries) Regulations, 2008: Sch II. CI (3)(b) defines the criteria for determining 'fit and proper' status and the additional period of 'three years' as defined the IFSCA regulations is not there. While the criteria talks about pendency of the matter and 'order' passed by authorities being in force, the criteria of cooling period of three years is not there.</p> <p>IFSCA regulations stipulate additional 3 years.</p> <p>This clause shall act as a deterrent for their participation on IIBX while they can continue to import/supply Gold through all other channels as TRQ holders or otherwise.</p>
19	73 (1)	<p>Maintenance of books of accounts, records and other documents: Every recognised bullion clearing corporation shall maintain and preserve the following books of account and documents in electronic retrieval form for a minimum period of twenty years.</p>	<p>Maintenance of books of accounts, records and other documents: Every recognised bullion clearing corporation shall maintain and preserve the following books of account and documents in electronic retrieval form for a minimum period of ten twenty years.</p>	<p>When the Authority is looking for ease of doing business in GIFT-IFSC, mandating the books of accounts in electronic retrieval form to be maintained for twenty years is a big hurdle. The 2020 Regulations provided for maintaining books of accounts for 5 years.</p>

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20	73 (1)	Every recognised bullion exchange shall maintain and preserve the books of account and documents referred to in rule 14 of the rules, and such others records as may be specified by the Authority from time to time, in electronic retrieval form for a minimum period of twenty years.	This may be reconsidered and directions may be for maintaining the records for 8 years, of if there is a pending prosecution or the matter is in a court of law/sub-judice, till such time the matter is disposed off.	This may involve huge cost – IT & Maintenance as well as maintenance issues
21	80 (1)	Circular on Code of Conduct is rescinded.	Requirement of 'disclosure of Dealing in securities' was a part of this circular. Does this mean that Directors/KMPs etc of Bullion exchange or CC are not required to submit such disclosures any more.	This may kindly be clarified to avoid any non-compliance.

**IFSCA Comments:**

The above comments/suggestions received were considered and placed before the Authority in its meeting held on December 19, 2024. Necessary modifications have been carried out in the IFSCA (Bullion Market) Regulations, 2025.