

Consultation paper on the proposed IFSCA (Banking) (Amendment) Regulations, 2023

Objective:

1. The objective of this consultation paper is to seek comments/views/suggestions from the public on the proposed amendments to the International Financial Services Authority (Banking) (Amendment) Regulations, 2020 (“the Regulations”).

2. Background:

1. The IFSCA (Banking) Regulations, 2020 (as amended) (“banking regulations”) currently permit a parent bank to set up only one Banking Unit in an IFSC and only as a branch. Banking business in IFSC has witnessed steady growth since the banking regulations were first notified on November 20, 2020. While the branch model is a useful starting point for commencement of banking operations, especially in new jurisdiction like GIFT-IFSC, future growth of the sector requires consideration of other models including operating as subsidiary company of the parent bank.
2. The relative advantages and disadvantages of different organisational models has to be looked at both from the point of view of the Parent bank and of the home/host regulators. Decision of the choice of models has to be made on a case-to-case basis as one size fits all approach is unlikely to be successful given the diversity of business models adopted by banks.
3. In the above context, it is felt necessary to enable banking business to be conducted in IFSC under the subsidiary model to complement and as an evolution from the branch model. Accordingly, the proposed amendments to the banking regulations, inter alia, proposes to :
 - a. Permit IBUs to be set up as a subsidiary company of the parent bank
 - b. Specify the base capital required to commence operation as a subsidiary company of the parent bank at USD 50 million with discretion provided to the Authority to specify any other level of capital.
4. The draft amendment regulations are placed on the website of the IFSCA at <https://ifsc.gov.in/PublicConsultation>. General public and stakeholders are requested to forward their comments/suggestions through e-mail to Mr. Supriyo Bhattacharjee at supriyo.b@ifsc.gov.in and Mrs. Manisha Khuntia at manisha.khuntia@ifsc.gov.in on or before June 19, 2023 in the attached format. The comments may be provided in MS Word or MS Excel format only.

Format for providing comments / suggestions

Proposed amendments to IFSCA (Banking) Regulations, 2020

Name, Designation of the person				
Contact No.				
Name of Organisation				
Page No. of Draft Regulation	Reg. No.	Sub-Regulation No/Para No.	Comments/Suggestions/Suggested modifications	Rationale

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY

NOTIFICATION

Gandhinagar, [date]

**INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (BANKING)
(AMENDMENT) REGULATIONS, 2023**

No. IFSCA/2021-22/GN/___. In exercise of the powers conferred by sub-section (1) of Section 28 read with sub-section (1) of Section 12 and sub-section (1) of Section 13 of the International Financial Services Centres Authority Act, 2019, the International Financial Services Centres Authority hereby makes the following regulations further to amend the International Financial Services Centres Authority (Banking) Regulations, 2020, namely: -

1. (1) These regulations may be called the International Financial Services Centres Authority (Banking) (Amendment) Regulations, 2023.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the International Financial Services Centres Authority (Banking) Regulations, 2020 (hereinafter referred to as the Principal Regulations), after clause (p) of sub-regulation (1) of regulation 2, following clauses shall be inserted, namely:
“(q) “Subsidiary company” means a company that satisfies the definition u/s 2(87) of the Companies Act, 2013 (as amended)
3. In the Principal Regulations, after sub-regulation (1) of regulation 3, following clause shall be inserted, namely,—
“(1)(a) A Banking unit can be set up in IFSC in the form of :
 - a) a branch of the Parent bank or;
 - b) as a Subsidiary company of the Parent bank

provided that a Parent bank having an IBU in the form of a branch and wanting to set up a Subsidiary company in IFSC, shall be required to relinquish the license issued earlier for setting up an IBU in the form of a branch.”

4. In the Principal Regulations, sub regulation (2) of regulation 3, shall be substituted with the following, namely:
“(2) An application for setting up an IBU shall be made by the Parent Bank in the form and manner as specified by the Authority.”

5. In the Principal Regulations, after sub-regulation (2) of regulation 3, following clause shall be inserted, namely,—

“(2)(a) The Parent Bank may, after due intimation to the Authority, withdraw an application for setting up an IBU at any time before grant of licence. “

6. In the Principal Regulations, sub regulation 3 of regulation 3, shall be substituted with the following, namely:

“(3) The applicant shall satisfy the following requirements for grant of licence by the Authority to set up a Banking Unit in the form of a branch of the Parent bank:

(a) The Parent bank shall provide necessary capital for the BU, subject to a minimum of USD 20 million or such other level of capital that may be specified by the Authority. Such capital shall be maintained at the Parent Bank in the manner as specified by the Authority.

(b) The Parent Bank shall obtain a No Objection Letter from its home regulator regarding setting up of the Banking Unit in the International Financial Services Centre as a branch of the parent bank ;

(c) The Parent Bank shall submit an undertaking that it shall provide liquidity to its BU whenever needed for the operations of the BU

(d) Any other condition that the Authority may specify”

7. In the Principal Regulations, after sub regulation 3 of regulation 3, following sub regulation shall be inserted, namely:

“(3a) The applicant shall satisfy the following requirements for grant of licence by the Authority to set up a Banking Unit in the form of a Subsidiary company of the Parent bank:

(a) The Parent bank shall provide necessary capital for the BU, subject to a minimum of USD 50 million or such other level of capital that may be specified by the Authority. Such capital shall be calculated and shall be maintained as specified by the Authority.

(b) The Parent Bank shall obtain a No Objection Letter from its home regulator regarding setting up of the Banking Unit in the International Financial Services Centre as a Subsidiary company of the parent bank

(c) Any other condition that the Authority may specify

8. In the Principal Regulations, sub regulation 4 of regulation 3, shall be substituted with the following, namely:

“(4) In case of an applications to set up a Banking Unit from a Foreign Bank not having presence in India , the Authority shall specify a suitable mechanism, in addition to the conditions mentioned in sub regulations 3 and 3 (a)”

9. In the Principal Regulations, sub regulation 6 of regulation 3, shall be substituted with the following, namely:

“(6)Where the Authority is of the opinion that licence cannot be granted, it may give thirty days’ time to the applicant, setting out the grounds based on which it cannot grant licence, to enable the applicant to make written submissions, if any.”

10. In the Principal Regulations, sub regulation 8 of regulation 3 shall be deleted

11. In the Principal Regulations, sub regulation 2 of regulation 4, shall be substituted with the following, namely:

“(2) Banking Units operating as a branch of the parent bank shall continue to comply with the directions and instructions issued by their Home Regulator, unless otherwise specified by the Authority”

12. In the Principal Regulations, sub regulation 1 of regulation 5, shall be substituted with the following, namely:

(1) A Banking Unit shall maintain the Liquidity Coverage Ratio;

Provided that in the case of a Banking Unit operating as a branch of the Parent bank ,with the Authority’s permission, the Liquidity Coverage Ratio may be maintained by the Parent Bank.

13. In the Principal Regulations, sub regulation 2 of regulation 5, shall be substituted with the following, namely:

“(2) Net Stable Funding Ratio shall be made applicable to a Banking Unit as and when

determined by the Authority and shall be maintained by a Banking Unit;

Provided that in the case of a Banking Unit operating as a branch of the Parent bank, with the Authority’s permission, the Net Stable Funding Ratio may be maintained by the Parent Bank.”

14. In the Principal Regulations, regulation 6, shall be substituted with the following, namely:

“6. Maintenance of Leverage Ratio

Banking Units operating as a Subsidiary company of the Parent bank shall adhere to the norms and guidelines relating to leverage ratio as may be specified by the Authority, from time to time”

15. In the Principal Regulations, regulation 8, shall be substituted with the following, namely:

“8. Reserve requirements

The liabilities of a Banking Unit, other than the deposits raised from individuals resident in India or outside India, shall be exempt from Cash Reserve Ratio or other such requirements. The deposits raised from individuals resident in India or outside India shall be subject to such reserve ratios as may be specified by the Authority.”

16. In the Principal Regulations, regulation 14, shall be substituted with the following, namely:

“14. Know Your Customer and Anti-Money Laundering measures applicable to a Banking unit

A Banking Unit shall follow Know Your Customer norms, combating of financing of terrorism and other anti-money laundering requirements, including reporting requirements issued by the from time to time.”

17. In the Principal Regulations, sub regulation 1 of regulation 18, shall be substituted with the following, namely:

“(1) There shall be no centralised deposit insurance scheme for deposits of a Banking Unit operating as a branch of the Parent bank. “

18. In the Principal Regulations, after sub regulation 1 of regulation 18, following sub-regulation shall be substituted with the following, namely:

“(2) Deposits of a Banking Unit operating as a Subsidiary company of the Parent bank shall be insured to the extent provided by the DICGC Act, 1961 and any directions issued under the said law.

INJETI SRINIVAS, Chairperson
[ADVT.- ____/__/____/____/2021-22]

Note:

1. The International Financial Services Centres Authority (Banking) Regulations, 2020 were published in the Gazette of India Extraordinary vide notification No. IFSCA/2020-21/GN/REG004 on 20th November 2020, to be read with the Corrigendum published in the Gazette of India Extraordinary vide notification No. CG-MH-E-12052021-226980, on 12th May, 2021;
2. The International Financial Services Centres Authority (Banking) (Amendment) Regulations, 2021 were published in the Gazette of India Extraordinary vide notification No. IFSCA/2020-21/GN/REG009 on 25th March, 2021; and
3. The International Financial Services Centres Authority (Banking) (Amendment) Regulations, 2021 were published in the Gazette of India Extraordinary vide notification No. IFSCA/2021-22/GN/REG013 on 05th July, 2021.
4. The International Financial Services Centres Authority (Banking) (Amendment) Regulations, 2022 were published in the Gazette of India Extraordinary vide notification No. IFSCA/2022-23/GN/REG025 on 29th of June, 2022.
