



## **Consultation paper on the proposed International Financial Services Centres Authority (Informal Guidance) Scheme, 2024**

### **Objective:**

The objective of this consultation paper is to seek comments/views/suggestions from the public on the proposed International Financial Services Centres Authority (Informal Guidance) Scheme, 2024.

### **Background:**

1. In the financial services market time is of the essence considering the imminent business decisions and transactions related thereto. In order to execute any such business decisions and transactions, clarity and guidance on the associated legal and regulatory architecture also becomes paramount for taking an informed decision.
2. Considering that International Financial Services Centre (IFSC) and related legal and regulatory architecture is relatively new in India, the existing financial institutions (FI) and persons intending to set up a Unit in IFSC, may encounter issues and challenges in interpreting legal frameworks associated with IFSC. In order to address the same, IFSCA is taking an initiative in the form of 'International Financial Services Centre Authority (Informal Guidance) Scheme, 2024 (Scheme).
3. The Scheme intends to provide an avenue for financial institutions and persons intending to set up a Unit in IFSC to seek clarity and guidance on various issues pertaining to their potential business activity and transactions, which are under the regulatory ambit of IFSCA.
4. This scheme is issued in exercise of powers under section 12 (1) and 13 of IFSCA Act, 2019, for orderly development of the financial services market in the IFSC.

5. The Scheme, *inter alia*, proposes to:

- (i) Lay down the eligibility criteria and the conditions which a requestor shall fulfil while making a request for informal guidance;
- (ii) Specify the types of informal guidance which may be sought and be given by a Department of the Authority;
- (iii) Specify the cases under which a Department of the Authority may not provide informal guidance; and
- (iv) Provide for confidential treatment to the request of a requestor for a specified time period.

6. A draft of the Scheme is placed on the website of the IFSCA at <https://ifsc.gov.in/ReportPublication/index/sKCVtbX6J9o> General public and stakeholders are requested to forward their comments/suggestions through e-mail to Mr. Ankit Bhansali at [ankit.bhansali@ifsc.gov.in](mailto:ankit.bhansali@ifsc.gov.in) Mr. Mihir Shukla at [mihir.shukla@ifsc.gov.in](mailto:mihir.shukla@ifsc.gov.in) and Mr. Kirankumar G Giriappanavar at [kirankumar.gg@ifsc.gov.in](mailto:kirankumar.gg@ifsc.gov.in) on or before September 10, 2024 in the attached format. The comments may be provided in MS Word or MS Excel format only.

### **Format for providing comments / suggestions**

<b>Name, Designation of the person</b>				
<b>Contact No.</b>				
<b>Name of Organisation</b>				
<b>Page No. of Draft Scheme</b>	<b>Clause No.</b>	<b>Sub-Clause No/Para No.</b>	<b>Comments/Suggestions/ Suggested modifications</b>	<b>Rationale</b>

**International Financial Services Centres Authority**  
**(Informal Guidance) Scheme, 2024**

1. This Scheme shall be called “International Financial Services Centres Authority (Informal Guidance) Scheme 2024”.
2. This Scheme is issued in exercise of powers under section 12 (1) and 13 of the International Financial Services Centres Authority Act, 2019, for orderly development of the financial services market in the International Financial Services Centre (IFSC).
3. The Scheme shall come into operation with immediate effect.
4. In this Scheme, unless the context otherwise requires: -
  - (i) ‘Act’ means the International Financial Services Centres Authority Act, 2019 (50 of 2019);
  - (ii) ‘Authority’ means the International Financial Services Centres Authority established under section 4 of the Act;
  - (iii) ‘Department’ means a Department of Authority and includes a Division of Authority;

*Words and expressions not defined in this Scheme shall have the same meaning as have been assigned to them under the Act or any statutory modification or re-enactment thereof, or any rules or regulations made thereunder, as the case may be.*

5. The following can make a request for informal guidance, addressed to the concerned Department under the Scheme:
  - (i) any person licensed, registered, recognised or authorised by the Authority;
  - (ii) any person intending to undertake any business or transaction in relation to financial product (s) or financial service (s) administered by the Authority, including any person intending to set up a Unit in IFSC; and
  - (iii) any other person as may be specified/permitted by the Authority.

6. The informal guidance mentioned in para 5 may be sought for and given in two forms:

(i) **No-Action letters:** In which a Department indicates that whether it would or would not recommend any action under the Act or any of the Acts (including any subsidiary legislation) listed in the First Schedule of the Act, including any Acts administered by the Authority, if the proposed activity/ business/ transaction described in a request made under para 7 is consummated.

(ii) **Interpretive letters:** The Department provides an interpretation of,

- a) specific provision of any Act, (including any subsidiary legislation) issued or administered by the Authority;
- b) circulars issued by RBI, SEBI, IRDAI and PFRDA, prior to the incorporation of the Authority and are presently being administered by the Authority, in relation to financial product, financial service or financial institution in IFSC; and
- c) other relevant legal provisions being administered by the Authority, in the context of a proposed activity/ business/ transaction in relation to financial service, financial product or financial institution or in a specific factual situation.

7. A request letter seeking informal guidance shall comply with the following:

- (i) It shall state that it is being made under this Scheme and also state whether it is a request for a no-action letter or an interpretive letter;
- (ii) It shall be accompanied with a fee of USD 1000, consisting 25% as the processing fee and the remaining as guidance fee;

Explanation: For the purpose of this Scheme,

a) *Guidance fees: shall mean fee charged for providing No-Action letter or Interpretative letter by the Department; and*

b) *Processing fees: shall mean fee charged for processing the request submitted by the requestor.*

- (iii) It shall describe the request, disclose and analyse all material facts and circumstances involved and mention all applicable legal provisions;

- (iv) The request shall clearly demonstrate a clear link between the question asked and their current or proposed activity in the IFSC; and
- (v) The request shall be addressed to the concerned Department of the Authority.

*Provided that, if the Department considers it necessary, they may request further information from the requestor in order to obtain clarity on the request.*

8. The Department may dispose off the request as early as possible and, in any case, not later than 30 days after the receipt of the request, which shall be complete in all respects. The Department may give a hearing, if it feels necessary to do so. The internal records or views of the Authority shall be confidential.
  
9. The concerned Department may not respond to the following types of requests:
  - (i) those which are general and those which do not completely and sufficiently describe the factual situation;
  - (ii) those which involve hypothetical situations;
  - (iii) related to legislations, rules, regulations, guidelines and circulars which are under consideration or not yet in force;
  - (iv) those requests in which the requestor has no direct or proximate interest;
  - (v) where the applicable legal provisions are not cited;
  - (vi) where a no-action or interpretive letter has already been issued by that or any other Department on a substantially similar question involving substantially similar facts, as that to which the request relates;
  - (vii) those cases in which investigation, enquiry or other enforcement action has already been initiated;
  - (viii) any policy issues which are not under the mandate of the Authority;
  - (ix) those cases where connected issues are pending before any Tribunal or Court and on issues which are sub judice;
  - (x) those cases where policy concerns require that the Department does not respond; and
  - (xi) such other cases as the Department deems fit.

10. Where a request is rejected for non-compliance with para 7 or para 9, the fee if any paid by the requestor shall be refunded to him after deducting therefrom 25% of the informal guidance fee towards processing fee.
11. The Department shall not be under any obligation to respond to a request for guidance made under this Scheme and shall not be liable to disclose the reasons for declining to answer the request.
12. **Confidentiality of request:**
  - (i) Any person submitting a letter or written communication under this Scheme may request that, it receives confidential treatment for a specified period of time not exceeding 90 days from the date of the Department's response. The request shall include a statement of the basis for confidential treatment.
  - (ii) On receipt of a request made under sub-clause (a), the Department shall ensure that confidentiality is maintained, until the expiration of the specified period of time not exceeding 90 days from the date of the Department's response.
13. A no-action letter or an interpretive letter issued by a Department constitutes the view of the Department and will not be binding on the Authority. However, the Authority may generally act in accordance with such a letter.
14. The letter issued by a Department under this Scheme should not be construed as a conclusive decision or determination of any question of law or fact by the Authority. Such a letter cannot be construed as an order of the Authority and shall not be appealable.
15. Where a no action letter is issued by a Department affirmatively, it means that the Department will not recommend enforcement action to the Authority, subject to other provisions of this Scheme.
16. The guidance offered through the letters issued by Departments is conditional upon the requestor acting strictly in accordance with the facts and representations made in

the letter.

17. Authority shall not be liable for any loss or damage that the requestor or any other person may suffer on account of the request not being answered or being belatedly answered or the Authority taking a different view from that taken in a letter already issued under this Scheme.
18. Where the Department finds that a letter issued by it under this Scheme has been obtained by the requestor by fraud or misrepresentation of facts, notwithstanding any legal action that the Department may take, it may withdraw and declare such letter to be *non est* and thereupon the case of the requestor will be dealt with, as if such letter had never been issued.
19. Where a Department issues a letter under this Scheme, it may post the letter, together with the incoming request, on the Authority's website, subject to the provisions of para 12.

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