REPORT

on

MAKING THE IFSC A RE-INSURANCE HUB

The development of a strategic framework based on a comparative international study

INVESTOR EDUCATION AND PROTECTION FUND CHAIR UNIT

DECEMBER 31, 2021

NATIONAL COUNCIL OF APPLIED ECONOMIC RESEARCH
NEW DELHI

Making the IFSC a Re-insurance Hub

The development of a strategic framework based on a comparative international study

Study Commissioned by
International Financial Services Centres Authority
Gandhinagar

December 31, 2021

NATIONAL COUNCIL OF APPLIED ECONOMIC RESEARCH
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The development of a strategic framework based on a comparative international study

New Delhi
December 31, 2021

International Financial Services Centres Authority
GIFT SEZ, GIFT City, Gandhinagar,
Gujarat - 382 355

To,

The Chairperson

The IEPF Chair Unit on Regulation at NCAER presents its Report to the International Financial Services Centres Authority.

Yours Sincerely

Dr KP Krishnan

IEPF Chair Professor in Regulatory Economics

National Council of Applied Economic Research

Contents

Acronyms

ACU	Asian Currency Unit
ART	Alternative Risk Transfer
ASD	Asian Dollar Market
ASEAN	Association of Southeast Asian Nations
BRTSIF	BIL Ryerson Technology Start-ups Incubator Foundation
CAT	Catastrophe Bond
CFI	Court of First Instance
DFSA	Dubai Financial Services Authority
DIFC	Dubai International Financial Centre
DIFCA	Dubai International Financial Centre Authority
DTA	Domestic Tariff Area
DTAA	Double Taxation Avoidance Agreement
FATF	Financial Action Task Force
FCA	Financial Conduct Authority
FDI	Foreign Direct Investment
FFZs	Financial Free Zones
FRBs	Foreign Reinsurance Branches
FSMA	Financial Services and Markets Act
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GFCI	Global Financial Centres Index
GIA	General Insurance Association
GIC	General Insurance Corporation
GIC	Global in House Centres
GIFT	Gujarat International Finance-Tec city
GMB	Gujarat Maritime Board
GMC	Gujarat Maritime Cluster
GST	Goods and Services Tax
GWP	Gross Written Premium
IAIS	International Association of Insurance Supervisors
IDD	Insurance Distribution Directive
IEPF	Investor Education and Protection Fund
IFSC	International Financial Services Centre
IFSCA	International Financial Services Centres Authority
IIO	International Financial Service Centre Insurance Offices

ILS	Insurance Linked Securities
INR	Indian National Rupee
IRDAI	Insurance and Regulatory Development Authority of India
ISPV	Insurance Special Purpose Vehicle
MAS	Monetary Authority of Singapore
MEASA	Middle East, Africa and South Asia
MGA	Managing General Agent
MHL	Marine hull and liability insurance
MNCs	Multinational Companies
MOU	Memorandum of Understanding
NCAER	National Council of Applied Economic Research
NOC	No Objection Certificate
OBOR	One Belt One Road
OIF	Offshore Insurance Fund
OoP	Order of Preference
ORSA	Own Risk and Solvency Assessment
OSIB	Offshore Specialised Insurance Business
PCC	Protected Cell Company
PFRDA	Pensions Fund Regulatory and Development Authority
PRA	Prudential Regulation Authority
RBAS	Reinsurance Brokers' Association
RBI	Reserve Bank of India
RBP	Regulatory Business Plan
RBS	Risk Based Supervision
RMB	Renminbi
ROC	Registrar of Companies
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SiaB	Syndicate-in-a-Box
SIAC	Singapore International Arbitration Centre
SIF	Singapore Insurance Fund
SPRV	Special Purpose Reinsurance Vehicle
SPV	Special Purpose Vehicle
TOR	Terms of Reference
UAE	United Arab Emirates
UK	United Kingdom
USD	United States Dollar

Acknowledgement

To sustain India's trajectory as an emerging economy, sooner or later, it has to become a producer and exporter of international financial services. Gujarat International Finance Tec - City (GIFT) as India's first International Financial Services Centre (IFSC), has the benefit of being a notified Special Economic Zone (SEZ), and therefore has developed a streamlined, business-friendly regulatory regime. Acting as a frontal force, the GIFT IFSC can help India to consolidate its position in the international financial market.

In April 2020, the International Financial Services Centres Authority (IFSCA) was established, as the financial regulator of the IFSCs. Within a short duration, IFSCA has undertaken a gamut of measures, including laying down a comprehensive regulatory framework for various financial services, with a focussed mandate of how to make GIFT City a thriving financial hub. Becoming an offshore financial centre is an important aspect of being a financial hub. Consistent with the IFSCA's proactive approach, it commissioned the comparative study of international financial centres having a developed offshore reinsurance market. The objective behind this study is to look at regulatory regimes and features related to ease of doing business in other financial centres to draw lessons for GIFT IFSC, so it can develop capability to cater to the international reinsurance market.

Reinsurance, simply put, is the insurance cover for insurance companies. Re-insurers help insurance companies to optimize their risk portfolio by taking on all or part of their risks in consideration of a premium payment. Eventually, reinsurance acts as a catalyst in providing stability to the business environment. This report is a modest and sincere attempt to support the IFSCA's vision to develop the IFSC as a preferred global hub for international financial services. It is hoped that the findings and recommendations in this report will help IFSCA in its pursuit of creating the necessary conditions in the GIFT IFSC, which can give a fillip to reinsurance activities.

At the outset, I would like to acknowledge the leadership of the first Chairperson of the IFSCA, Mr Injeti Srinivas, under whose guidance the comparative study of international jurisdictions for making IFSC GIFT City a reinsurance hub, was commissioned. Although the GIFT IFSC is at a nascent stage in comparison to international financial centres that are studied as part of this report, the policy and regulatory initiatives of the IFSCA are forward looking, and aimed at creating a vibrant financial services ecosystem. I would also like to extend our gratitude to all the officers of the IFSCA, especially Mr Praveen Trivedi, Executive Director, Department of Insurance, IFSCA and Mr Bhaskar Khadakbhavi, Deputy General Manager, Department of Insurance, IFSCA, who offered continuous advice and support in finalisation of this report.

Through the study, the team has held detailed consultations with various stakeholders of the insurance value chain, including the government, regulator, industry experts and practitioners. These consultations have helped us appreciate various viewpoints regarding the reinsurance market in the country in general, and its growth potential for the IFSC GIFT City in particular. In particular, I am thankful for the inputs received from Mr Anand Mohan Bajaj, Additional Secretary, Financial Markets, Department of Economic Affairs, Ministry of Finance, Government of India; Mr Saurabh Mishra, Joint Secretary, Insurance, Department of Financial Services, Ministry of Finance, Government of India; Ms T.L. Alamelu, Member Non-Life, Insurance and Regulatory Development Authority of India, Mr Arun Agarwal, Former Chief Representative for Llyod's India; Mr Hitesh Kotak, Chief Executive Officer, Munich Re India Branch; Mr Joydeep Roy, Partner, Global and India Health Insurance Practice Leader, PwC; Mr Sanjay Jain, Partner, Middle East Insurance Practice Leader, PwC and Mr Vishwanathan Krishnan, Chief General Manager, GIC Re GIFT City IIO. I extend my gratitude to all of them for sparing time for my team and in helping us design strategic recommendations.

The research for this report was undertaken by a core team led by Mr Sudipto Banerjee and comprised of Ms Amrita Pillai, Mr Ganesh Gopalakrishnan, Mr Saiyed Kamil and Ms Sundus Usmani. The core team has worked tirelessly to assimilate the nuances of the reinsurance market, both, in India and select international jurisdictions.

I am privileged to have had the opportunity to undertake the international comparative study for promotion of reinsurance activities in the GIFT IFSC and gratefully appreciate and acknowledge the intellectual inputs provided by every person who has contributed to this report.

Dr Shekhar Shah, Former Director General, and Dr Poonam Gupta, the current Director General of the National Council of Applied Economic Research (NCAER) deserve special mention for their encouragement of this assignment.

Dr KP Krishnan
IEPF Chair Professor in Regulatory Economics, IEPF Unit
National Council of Applied Economic Research

Executive Summary

Reinsurance entities provide insurance services to direct insurers, in turn, creating a stabilising effect on the business environment. Given the importance of reinsurance activities in a financial ecosystem, IFSCs in various jurisdictions have evolved as platforms for reinsurance solutions in the global market. For the GIFT City IFSC to become a global financial hub, it needs a robust pool of reinsurance participants, who can cater to offshore markets. In the year 2020, the net written premium was USD 137.159 bn, whereas the forecast for 2022 is USD 173.525 bn.[1] The GIFT City IFSC must target to incrementally, but consistently, gain a certain share in this global market over a fixed time period. The growth must be reviewed periodically, so that further measures may be taken to ensure this outcome.

Primarily, in the Indian reinsurance market, General Insurance Corporation of India (GIC Re), a state-owned entity, has been the sole Indian reinsurer in the domestic reinsurance market while also catering to the offshore market. Under the Insurance Act, 1938, GIC Re receives a statutory cession on every policy, subject to certain limits.[2] Major reforms were introduced through the enactment of the Insurance Laws (Amendment) Act, 2015, which allowed the entry of Foreign Reinsurance Branches (FRBs), Lloyd's India branches, Lloyd's syndicates, and service companies. Since then eleven FRBs have set up operations in India. Most of these FRBs are based out of Mumbai. Along with the liberalisation of the reinsurance market, the Insurance and Regulatory Development Authority of India (IRDAI) introduced the IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015, which requires cedants to give the first right of refusal in reinsurance contracts to GIC Re.

Simultaneously, in 2015, GIFT City IFSC was set up. In its initial years, IRDAI was the regulator of the insurance and reinsurance activities in the IFSC.[3] Similar to the insurance sector, other financial services in the IFSC were governed by the sectoral regulators. In order to create a holistic regulatory environment in Indian IFSCs, a unified regulator, IFSCA was established in the year 2020, under the IFSCA Act, 2019. Through powers conferred on it by this statute, the IFSCA exercises powers that financial sector regulators - the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI), Pension Fund Regulatory and Development Authority (PFRDA) and IRDAI exercise under their respective parent legislations and regulations. Within a

[1] Fitch Rating (September, 2021), *Fitch Ratings 2022 Outlook: Global Reinsurance*, URL: https://www.fitchratings.com/research/insurance/global-reinsurance-sector-outlook-improving-for-2022
[2] Section 101A of the Insurance Act, 1938
[3] Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015
Insurance Regulatory and Development Authority of India {Registration and Operations of International Financial Service Centre Insurance Offices(IIO)} Guidelines, 2017
Insurance Regulatory and Development Authority of India (International Financial Service Centre Insurance Intermediary Office) Guidelines, 2019

short duration, IFSCA has issued comprehensive regulations for various financial services, including insurance and reinsurance, which replaces the earlier IRDAI guidelines.[4] The new regulations are forward looking and market-friendly. One of the salient features of the new regulations is that it provides flexibility to FRBs to follow norms (like capital requirements, solvency margin, accounting standards) of their home jurisdictions, which was not allowed earlier. Also, it operationalizes a framework for incorporated entities to engage in insurance and reinsurance business. IFSCA has also been proactive in developing the market through collaborations with a variety of stakeholders, reaching out to businesses in several fora and providing a platform for innovation (like issuing the framework for regulatory sandbox).

Since GIFT City IFSC aspires to become a global reinsurance hub, it needs to adopt and keep pace with international benchmarks with respect to, both, regulation and business practices. With this objective in sight, the report looks at regulatory regimes and features related to ease of doing business in other financial centres - London, Singapore and Dubai International Financial Centre(DIFC), to draw lessons for the GIFT City IFSC, so it can develop the capabilities necessary to cater to the international reinsurance market.

Chapter II of the report documents the insurance/reinsurance framework in the GIFT City IFSC, introduced by way of the new IFSCA regulations and guidelines. Understanding the reinsurance landscape of the GIFT City IFSC helps us to identify parameters for drawing an informed comparison with the international centres. These comparisons may then be used to potentially identify areas for improvement.

Chapters III, IV and V document our findings from the study of three international financial centres - namely, London, Singapore and the DIFC. In our examination of these jurisdictions, we categorise the study into four broad themes - namely, the evolution of the financial/reinsurance hub, the prevalent legal and regulatory architecture for the reinsurance market, business practices/innovations, and the developmental role of the regulator (if any). The purpose of studying the centres is to identify the key features prevalent in these evolved markets, which may be responsible for their success and sustained growth. In Chapter VI, we compare and contrast these features (based on a set of 21 parameters) from other IFSCs with the extant framework of the GIFT City IFSC.

The recommendations of this study are given in Chapter VII of the report. While the bulk of our recommendations are focused on the reinsurance market (specific recommendations), we have

[4] International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
International Financial Services Centres Authority (Insurance Intermediary) Regulations, 2021

taken the liberty to highlight some crucial elements (general recommendations) - like dispute resolution, capacity building of IFSCA and need for GIFT City IFSC to be developed as a global city, which are likely to support the growth of the financial services sector in the GIFT City IFSC, including reinsurance.

Our recommendations are summarised in the next few paragraphs.

Specific recommendations

Risk-based supervision framework

Foreign reinsurers operating branches in the IFSC have the liberty to adhere to the solvency margin of their home country.[5] However, it is unclear which solvency margin requirements the incorporated entities must follow. Moreover, the regulations also do not clearly spell out the supervision framework for insurance and reinsurance businesses in the IFSC. Our comparative study of the three financial centres informs us that these hubs uniformly follow a Risk-Based Supervision (RBS) framework for the entities operating from these jurisdictions. Further, our consultations with stakeholders suggest that if a RBS system is adopted, then additional capital that at present remains locked need not remain idle, which can improve the competitiveness of a business entity in the IFSC. Experience of other jurisdictions shows that designing a RBS framework could be a complex exercise. Therefore, IFSCA, as a member of the International Association of Insurance Supervisors (IAIS), may collaborate with other members/regulators who follow the RBS regime, in designing a framework suitable in the context of GIFT City IFSC.

Prudence-based investment framework

Our study of international jurisdictions shows that the established financial centres provide a prudence-based investment framework. Under the new IFSCA regulations, foreign branches have the flexibility to invest assigned capital and assets backing solvency margin as per the requirements of their home country regulators.[6] But the IFSCA regulations do not clearly lay down an investment framework. The investment choices for Indian insurers and reinsurers are therefore regulated under the Insurance Act, 1938, and the IRDAI Investment Regulations, 2016.[7] These investment choices are restricted, such as prohibition of investment of policyholder funds outside India or

[5] Regulation 17(4) of International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
[6] Regulation 17(2)(b) and 17(4)(b) of International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
[7] Pursuant to Section 13(1) and 34 of the IFSCA Act, 2019, investment norms prescribed under the IRDAI Investment Regulations, 2016 may continue to apply to reinsurance units in the IFSC.

investment in private companies. Therefore, IFSCA should consider adopting a prudence-based investment framework for all entities operating in the IFSC. However, this would first require amendment to the Insurance Act, 1938. The government has powers to issue a notification to exempt a unit operating in the IFSC from any of the provisions of the Insurance Act, 1938.[8] Similarly, under the IFSCA Act, the government has the power to exempt financial products, financial services and financial institutions in the GIFT City IFSC from the provisions of other central legislations. [9]

Alternative risk transfer framework

Reinsurers while underwriting deals involving huge exposures find it difficult to source the capital from the traditional insurance market. Hence, reinsurers look for alternative avenues like use of Insurance Linked Securities (ILS) to transfer the risk and source the capital from the capital markets. One example is through - Catastrophe Bonds (CAT Bonds). Over the past two decades, CAT Bonds have emerged as a popular option for insurers and reinsurers to protect themselves against natural disasters. Jurisdictions like Singapore and London have facilitated the development of CAT Bonds by providing a conducive regulatory framework.[10] At present, IFSCA does not support a range of risk transfer instruments, including CAT Bonds. In the Domestic Tariff Area (DTA), an insurer may enter into alternative risk transfer arrangements only after obtaining prior approval from IRDAI.[11] This also means a branch of IRDAI registered insurer/reinsurer operating in the IFSC would be subject to such approval.

While in the IFSC, there is no prohibition on IIOs to adopt alternative risk transfer strategies, compared to other international financial centres which formed part of our study, there is no guideline/framework on alternative risk transfer. For instance, London, Singapore and DIFC have a regulatory regime for ILS and creation of SPVs for alternative risk transfer arrangements. At present, the investments made by pension and insurance funds are governed by conservative investment guidelines issued by their respective regulators. To ease the financing of instruments like CAT Bonds by such institutional investors, concomitant changes to their quantitative investment limits may also be necessary.

[8] Section 2CA of Insurance Act, 1938. This amendment was made to the Insurance Act, when the Special Economic Zones Act, 2015 was legislated.
[9] Section 31 of the International Financial Services Centres Authority Act, 2019
[10] See, Chapter III and IV on Reinsurance framework in London and Singapore respectively for the discussion on ILS and CAT Bonds.
[11] Regulation 8 of Insurance Regulatory and Development Authority of India (Re-insurance) Regulations, 2018

Building specialisation

Taking cues from the experience of other IFSCs, GIFT City IFSC needs to develop specialisations in particular segments of the reinsurance market. For instance, the aviation and marine specialty lines enabled most of the growth in the London reinsurance market, whereas property contributes to almost 60% of the total offshore reinsurance business in Singapore. For identifying the speciality which could be developed in the GIFT City IFSC, IFSCA may look into both the captive and offshore market to identify areas with room for growth. In 2019-20, the total reinsurance premium placed outside India with Cross-Border Reinsurers (CBRs) was INR 13,959.88 crore, driven mainly by fire, marine and engineering risks. Recently, the government has notified aircraft leasing, including operating and financial leases as a 'financial product' under the IFSCA[12]. If IFSCA aims at making GIFT City IFSC an aircraft leasing hub, then it should also develop aviation leasing reinsurance capacity. For instance, IFSC will require an ecosystem of underwriters, loss assessors, claim adjusters and lawyers, who have international expertise in the aviation segment. At present, there are no foreign law firms in the GIFT City IFSC.[13]

In collaboration with the government, IFSCA's primary role must be to ensure that growth is not stunted in the IFSC because of any limitations in the legislative and regulatory frameworks. Although IFSC is in a nascent stage, all kinds of insurance/reinsurance data (like types of insurance/reinsurance activities, markets contributing to insurance/reinsurance business, segments of insurance/reinsurance business, etc) must be periodically captured and published. This can help in identification of trends to develop specialisation.

Business with DTA

India offers a huge captive insurance market unlike the UAE or Singapore, which could be a potential source of reinsurance business for the IFSC Insurance Offices (IIOs). If IIOs intend to do business in the DTA, they will be subjected to the Order of Preference (OoP) - IIOs are third in the hierarchy after the FRBs registered with IRDAI.[14] This form of limitation is not found in the other IFSCs which formed part of our study.[15] IFSCA in collaboration with the government should aim to provide a conducive business environment not only for the offshore business, but also for doing

[12] Department of Economic Affairs, Notification, S.O. 3652 (E), 16 October, 2020,URL: https://ifsca.gov.in/Viewer/Index/98
[13] In February 2021, IFSCA issued a circular laying down a framework for ancillary services, where service providers can provide services including legal and audit services. As per the Circular, service providers include a branch or a subsidiary of a foreign entity. However, it is not clear how the Circular would interact with the restriction under the Advocates Act, 1961.
See, IFSCA Circular F. No.206/IFSCA/Anc.Aux/2020-21 February 10, 2021
[14] Regulation 28(9) of Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015
[15] In DIFC, the reinsurance players are barred from doing direct insurance business in the mainland UAE but they can do reinsurance business without any barriers. Article 4(4) of UAE Federal Law No (8), 2004.

business with the DTA. Further, to avoid jurisdictional overlap when IIOs conduct business with the DTA, adequate inter-regulatory coordination is imperative.

Ease of doing business

At present, an applicant for insurance/reinsurance business has to obtain approval from the SEZ Development Commissioner. An applicant registered with the IRDAI additionally requires an NOC from IRDAI. Instead of an applicant coordinating with three different authorities (the SEZ Development Commissioner, IRDAI and IFSCA), it would be easier for them if IFSCA were to become a single window for facilitating the entire process.

There are no prescribed timelines governing the registration process. While the IFSCA regulations have been recently issued, with more experience, a reasonable time period may be eventually prescribed for the registration process.

At present, an IIO permitted to transact reinsurance business can retrocede up to 50% of its reinsurance business. Under the earlier IRDAI Guidelines, 2017, an IIO was allowed to retrocede up to 90% of its reinsurance business.[16] Our study of the selected jurisdictions show that they have adopted the 'cedant responsibility model', which does not impose any such limit on cession/retrocession.

The regulations made for the intermediaries impose a condition where an intermediary cannot earn more than 50% of the remuneration from any one client in a financial year.[17] We did not find such a cap on remuneration in any of the jurisdictions which formed part of our study.

Keeping the international practices in consideration, IFSCA should revisit these conditions.

General recommendations

Dispute resolution

As is the case with all financial services, contract enforcement assumes a significant role in insurance or reinsurance transactions. Global financial hubs provide a world-class dispute resolution ecosystem. At present, it appears that disputes in the IFSC would be subject to the courts

[16] Regulation 21(e)(i) of Insurance Regulatory and Development Authority of India {Registration and Operations of International Financial Service Centre Insurance Offices (IIO)} Guidelines, 2017
[17] Regulation 22(1) of International Financial Services Centres Authority (Insurance Intermediary) Regulations, 2021

in Gujarat, which can lead to delays in contract enforcement. Even when a party in the IFSC obtains a favourable award from an international arbitral institution, it needs to be enforced/executed through a civil court in Gujarat, where the opposite party can challenge the validity of the award on certain grounds.[18] This can result in delays. In consultation with the government and other stakeholders, the IFSCA ought to develop a mechanism to contain the whole process within the boundaries of the IFSC without recourse to civil courts in Gujarat. Other IFSCs have successfully implemented such designs.

IFSCA should invite multiple international arbitral institutions to set up their offices in the GIFT IFSC. This can gradually promote the culture of institutional arbitration and develop local expertise in settlement of commercial disputes. Also, GIFT City IFSC should allow third party litigation funding. Financial hubs like Singapore and Hong Kong have made appropriate changes to their domestic laws to allow third party funding for arbitration and mediation proceedings.[19] IFSCA would have to collaborate with the government for special treatment of IFSC under various laws, like Arbitration and Conciliation Act, 1996 and Code of Civil Procedure, 1908.

Capacity building of IFSCA

Under the IFSCA Act, IFSCA is mandated to carry out the dual roles of making regulations and market development. Although IFSCA is a newly formed body, it is expected to play an active role to help the IFSC grow, compete and promptly occupy a global standing. This is not an easy task. For achieving this objective in a short duration, the capacity-building program of IFSCA needs to be institutionalised. This means that there should be a documented policy on aspects like training, education, performance targets, performance appraisal, career progression and commitment of annual budget. For instance, secondments, exchange programs with established financial regulators should be regular and planned, and not on an ad-hoc basis. This would require an annual as well as a long-term activity plan. IFSCA must design compensation which can attract talents from various segments, like the private sector, academia, and from overseas financial markets. Over the next few years, subject to resource considerations, IFSCA may consider setting up its own capacity building institute on the lines of other regulators in Singapore and DIFC. There must also be periodic impact assessments of the capacity-building measures.

[18] Section 48 of Arbitration and Conciliation Act, 1996
[19] Ministry for Law and Justice (July, 2017), *Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India* URL: https://legalaffairs.gov.in/sites/default/files/Report-HLC.pdf

Global city

For GIFT City IFSC to become a global reinsurance hub, it needs to become a global city. The *High Powered Expert Committee on Making Mumbai as International Financial Centre* noted that one of the main prerequisites for the cluster effect to take off in a financial centre is the presence of world-class living facilities which are dependent on factors like amenities, medical care, education, and recreation. The city must not only attract the working population, but also their families. GIFT City will need to be seen as a cosmopolitan metropolis that welcomes and embraces migrants from everywhere – from India and abroad. This would also require respect for food and other preferences of a cosmopolitan population. In reality, allowing certain lifestyles could result in increasing social tension - a risk that needs to be managed sensitively and skilfully. For instance, while in the UAE, consumption of liquor has been regulated, there are no restrictions in the DIFC, since liquor forms an important part of recreation for expats coming from different parts of the world. Similarly, the government would have to soon take a decision on the proposal to relax certain provisions of the Gujarat Prohibition Act, 1949, on sale and consumption of liquor in the GIFT City IFSC. For an international quality of living, GIFT City IFSC also has to provide state-of-the-art infrastructure along with direct and frequent connectivity to other international cities.

The reinsurance market in the GIFT City IFSC is at a nascent stage. But this should be turned to its advantage by positioning the GIFT City IFSC as the upcoming jurisdiction for innovation and conducive business environment. GIFT City IFSC, as India's first SEZ for financial services, has an opportunity to break away from the legacy of the DTA. However, some of the limitations under the insurance laws as applicable to the DTA, continue to linger in the IFSC. This needs to be addressed. GIFT City IFSC would also need special treatment under other laws and regulations which can cause impediments in creation of cluster effects. Given the consistently progressive approach of the government in promoting GIFT City IFSC, and its seamless collaboration with IFSCA, GIFT City IFSC holds a promising future as a financial and reinsurance hub.

CHAPTER I

Introduction

I.1. Mandate

IFSCA is the unified authority for the development and regulation of financial products, financial services and financial institutions in the IFSC. IFSCA approached NCAER to commission a study to suggest measures to develop GIFT City IFSC as a reinsurance hub. In furtherance of this, IFSCA *vide* letter dated September 7, 2021, and MoU dated October 1, 2021, appointed the IEPF Chair Unit at the NCAER to undertake an international comparative study to develop a strategic framework for making India's first IFSC, GIFT City a reinsurance hub. The terms of reference (TOR) of the study are as follows:

1. Examine legislations, regulations and policies in India and IFSC for drawing a comparison of the IFSC's regulatory framework with the international best practices in the established financial centres.
2. Suggest necessary measures/changes to develop reinsurance hubs in the IFSC GIFT City.

Pursuant to the scope of the TOR, NCAER identified three established financial hubs - namely, Singapore, London and DIFC, for the purpose of comparative study. The objectives of this study are two-fold: *first*, to identify relevant regulatory designs and business practices/innovations from these jurisdictions for a comparison with the existing reinsurance ecosystem in the IFSC. Doing this comparison would help to understand whether the new reinsurance regulatory design in GIFT City IFSC is at par with the international standards, and whether it allows a congenial atmosphere to promote international business practices. *Second*, to suggest corrective measures to bridge the gap, if any, between IFSC and the international centres. Adopting these measures can help the IFSC to compete in the international market as a provider of global reinsurance solutions.

I.2. Methodology

For the purpose of our study, we have examined the best practices in the surveyed jurisdictions based on the information available in public domain, including their legislative and regulatory instruments, research reports, publications of reinsurance and insurance businesses, and academic literature. In the Indian context, we have studied the relevant legislations, including

Insurance Act, 1938, regulations issued by the IFSCA and IRDAI, and benefited from the observations in reports of the expert committees constituted by the IRDAI and IFSCA. To gain a grounded understanding of the challenges and opportunities associated with the reinsurance sector, our study also involved extensive consultations with the government, regulators like IRDAI and IFSCA, Indian reinsurer (GIC Re), FRBs, intermediaries, and other stakeholders and market experts.

I.3. Limitations

Initially, a study tour was planned to one of the international financial centres, to interact with the reinsurance players and the regulatory authorities, and gain better insight regarding their practices. However, in the wake of the pandemic and restrictions on foreign travel, the study tour could not take place. As a result, our consultations have been confined to stakeholders and experts in India and abroad, through virtual platforms.

I.4. Relevance of reinsurance

Reinsurance helps insurance companies in transferring or 'ceding' all or some of the financial risks to another insurance entity against the payment of premium. Hence, reinsurance constitutes a vital component of the insurance activity, as it serves to optimize the risk portfolio of an insurance company.[20] With the constant expansion of risks in our lives, insurance companies are required to underwrite a variety of complex risks for their policyholders. Consequently, there is an increasing demand for reinsuring the risks. From the terrorist attack on the World Trade Centre to earthquakes in Nepal, reinsurance has played a vital role in mitigating risks. Further, the experiences of established international financial centres like New York, Singapore, London, and Frankfurt stand testimony to the vital role of reinsurance activity in the growth of these centres as a financial hub. More so, the presence of global reinsurers in these centres has significantly contributed to the development of a 'cluster effect', which is a critical factor for the success of any financial centre.

As India stands at the cusp of becoming a leading global economy, a strong and evolved insurance and reinsurance market could be a frontal force in pushing India towards this milestone. With the local markets increasingly getting connected to the global market, the reinsurance industry needs to evolve and adapt to the new challenges. Over the years, the Indian reinsurance market has evolved in volume. As the sole Indian reinsurer in the domestic reinsurance market, GIC Re, a

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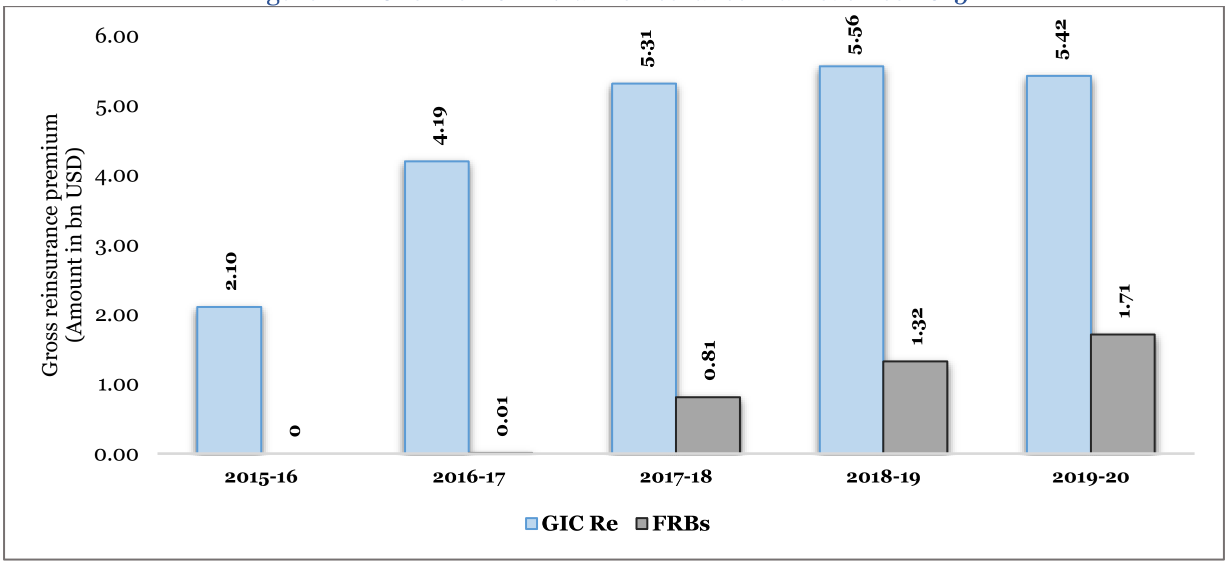
[20] IRDAI (November, 2017), *Report of the Reinsurance Expert Committee*
URL:https://www.irdai.gov.in/ADMINCMS/cms/frmGeneral_Layout.aspx?page=PageNo3325&flag=1

state-owned entity, provides reinsurance to the direct general insurance companies in the Indian market. GIC Re receives a statutory cession of 5% on each and every policy subject to certain limits.[21] The enactment of the Insurance Laws (Amendment) Act 2015 ushered in changes to the reinsurance market in India by facilitating entry to FRBs and Lloyd's India branch, Lloyd's syndicates, and service companies.[22] Figure I.1 provides a snapshot of the growth of the Indian reinsurance market (non-life segment) since 2015 when FRBs were permitted to set up operations in India. The Gross Written Premium (GWP) of GIC Re in the year 2019-20 was recorded at USD 5.42 bn while that of the FRBs' was recorded at USD 1.71 bn.

Figure I. 1- Overview of Indian reinsurance market since 2015



Source: Based on data received from IFSCA

According to the annual report of IRDAI for 2019-20, the net written premium (difference between premium received and premium ceded) of reinsurers increased from USD 6.20 bn in 2018-19 to USD 7.3 bn in 2019-20 registering a growth of 17.8 %. FRBs including Lloyd's recorded an increase of 7.61 %, while GIC Re recorded 19.64 % growth in net written premium. Premium on reinsurance ceded has increased from USD 1.16 bn in 2018- 19 to USD 1.27 bn in 2019-20 registering 10% growth.

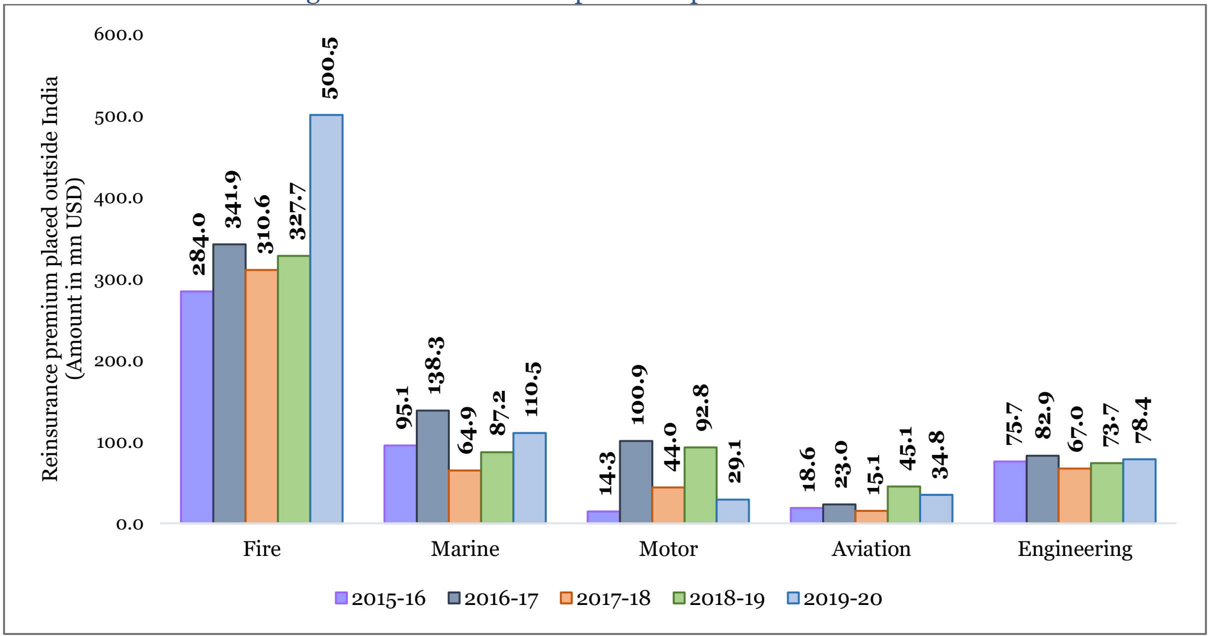
[21] Section 101A of the Insurance Act, 1938

[22] After FRBs entered the Indian reinsurance market, the IRDAI issued a certain order of preference on transaction of reinsurance business. See, IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015

I.5. Reinsurance opportunities for IFSC

With the setting up of India's first IFSC in the GIFT City, there is potential for large opportunities in the reinsurance sector to explore new geographical markets (offshore) and new products. Under the present regulatory design, IFSC can provide reinsurance services to IFSC Insurance Offices (direct insurers) in IFSC; provide retrocession to IFSC Insurance Offices (reinsurers) in IFSC; provide reinsurance services to cedants (direct insurers) based in India (subject to order of preference); provide retrocession to reinsurers and FRBs based in India; and provide reinsurance and retrocession to cedants/reinsurers based outside India. Figure I.2 shows the segment-wise reinsurance premium placed outside India between 2015 and 2020. In the year 2019-20, a total of USD 1.88 bn reinsurance premium was placed with CBRs. This may be redirected towards the IFSC, serving as a viable source of business for the region. The reinsurance premium underwritten offshore in the fire segment has remained highest amongst all other segments in the studied period between 2015-16 and 2019-20. The amount underwritten offshore in 2019-20 under fire segment was USD 500.5 mn. This is followed by USD 110.5 mn and USD 78.4 mn underwritten with CBRs in the marine and engineering segments, respectively. Examining this trend could be helpful in identifying future business prospects for reinsurance entities in the IFSC.

Figure I. 2- Reinsurance premium placed outside India



Source: IRDAI Annual Reports

Global reinsurance market

While the DTA market may offer promising reinsurance business opportunities, one of the main objectives behind creating an IFSC is to connect it to the international financial market. This could happen only when the IFSC gains a share in the global offshore reinsurance business. For instance, the global reinsurance market in 2020 in terms of net written premium was USD 137,159 mn, whereas the forecast for 2022 is USD 173,525 mn. This is almost a growth rate of 26 % in a span of two years.[23] Further, the revenue forecast in 2026 is USD 35,4540 mn.[24] Since 2015, the reinsurance industry's capital base has grown by 61 %, equivalent to an average annual pace of 6 %.[25] Given the expanding share of the global reinsurance market, the time is ripe for the IFSC to aim at entering this offshore market as a reinsurance solutions provider. While IFSC's reinsurance market is at a nascent stage, it must target to incrementally, but consistently, gain a certain share in this global market over a fixed time period. The growth must be reviewed periodically, so that further measures may be taken to ensure this outcome.

Faced with increasing risks like climate change, complexities of the businesses and the ongoing unprecedented impact of the pandemic, the global reinsurance market is only expected to expand. Potentially this can offer great opportunities for the IFSC to tap into the developed and emerging markets like the SAARC nations, Southeast Asia, Middle East and the African nations. For instance, as per the Swiss Re Institute, while the global market witnessed a real premium growth of 2.9%, emerging and Asia-Pacific markets recorded a growth of 4.4% and 6.6% respectively.[26] Further, there are about 31 million Indian diaspora living outside India, who could be a potential target of insurance and eventually reinsurance business opportunities.[27] In sum, new business opportunities will continue to arise. With the right strategy and requisite expertise, the IFSC can exploit aforementioned opportunities in the global reinsurance market.

Cluster effect

The experience of international jurisdictions like London, Singapore and DIFC, confirm the importance of a cluster effect in enabling the development of reinsurance markets. Clusters are

[23] Fitch Rating (September, 2021), *Fitch Ratings 2022 Outlook: Global Reinsurance*. URL: https://www.fitchratings.com/research/insurance/global-reinsurance-sector-outlook-improving-for-2022
[24] Valuates Reports (May, 2019), *Global Reinsurance Market Size, Status and Forecast 2021-2027*. URL: https://reports.valuates.com/reports/QYRE-Auto-6171/global-reinsurance
[25] Gallagher Re (September 2021), *Global Reinsurance market report: A look at the evolution and performance of the global reinsurance industry for the first half of 2021*, URL: https://www.ajg.com/gallagherre/news-and-insights/2021/september/reinsurance-market-report-first-half-2021/
[26] Swiss Re Institute Sigma (2020), *World insurance: riding out the 2020 pandemic storm*, URL:https://www.swissre.com/dam/jcr:05ba8605-48d3-40b6-bb79-b891cbd11c36/sigma4_2020_en.pdf
[27] IFSCA (October 2020), *Expert Committee Report on IFSC International Retail Business Development*. URL: https://ifsca.gov.in/Viewer/ReportandPublication/12

geographic concentrations of interconnected companies, specialised suppliers, service providers, firms in related industries and associated institutions in particular fields that both compete and cooperate with each other. When clusters exist, there is a concentration of specialised personnel, services and components. This gives clusters an advantage over other locations resulting in a distinct thought leadership.[28] The DIFC, set up in 2004, has demonstrated the cluster effect with the growth of banks, fund managers, and law and accounting firms. So far there are more than 2,500 registered companies, out of which 820 are engaged in financial services. Also, there is a growing ecosystem of around 25,000 professionals comprising bankers, fund managers, lawyers and accountants.[29]

In India, the city of Mumbai has already demonstrated such a cluster effect where it has an interconnected market of insurers, reinsurers, insurance and reinsurance brokers, law firms, professional services and other supporting institutions. These factors were also highlighted by the High Powered Committee which was constituted to make Mumbai as an international financial centre.[30] Similar conditions have to be created in the GIFT City IFSC to trigger the benefits of the cluster effect. An interesting initiative of developing a maritime cluster is ongoing with the collaboration between the IFSCA and the Gujarat Maritime Board (GMB). It has conceived the Gujarat Maritime Cluster (GMC) as a dedicated ecosphere of ports, maritime/ shipping and logistics services providers along with the sectoral regulator, within GIFT City IFSC. For the reinsurance market to grow in the GIFT City IFSC, it will need a thriving market of financial service providers, intermediaries, legal consultants (including foreign law firms), auxiliary services, and an effective dispute resolution mechanism. It would also need world-class living standards, cultural comfort with foreigners living and working, the use of English language and a high-quality labour force.

Since April 2015, GIFT City IFSC, a multi services SEZ with 105 hectares of land, has commenced its business. After establishing the IFSC, immediately in the next financial year, i.e., 2016-17, the government announced taxation benefits to make it competitive and promote financial services.[31] Over the duration of six years since its inception, financial entities have been gradually setting up operations in the IFSC. In August 2021, there was a pilot launch of India's first billion exchange, which is a joint venture between several entities like NSE, BSE, MCDX, NSDL and CDSL.

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[28] Indian Merchant's Chamber (June, 2014), *A framework for developing a reinsurance hub in India*. URL: https://silo.tips/download/a-framework-for-developing-a-reinsurance-hub-in-india

[29] The Economist (22 August, 2020), *Can Dubai enter the premier league of financial centres?* URL: https://www.economist.com/finance-and-economics/2020/08/22/can-dubai-enter-the-premier-league-of-financial-centres

[30] Ministry of Finance (2007), *Report of the High Powered Expert Committee on Making Mumbai an International Financial Centre*, URL: https://dea.gov.in/sites/default/files/mifcreport.pdf

[31] See, Union Budget Speech of FY 2016-17. Dividend distribution tax was exempted on companies located in the IFSC. Minimum alternate tax was reduced from 18.5% to 9%. Subject to few conditions, transactions in the IFSC were exempted from securities transaction tax, capital gain tax on sale of long term capital assets, and commodity transaction tax, URL: https://www.indiabudget.gov.in/budget2016-2017/ub2016-17/bs/bs.pdf

Table I.2 shows the number and types of entities established in the GIFT City IFSC between 2015 and 2021. So far 19 banks have set up businesses, including 3 foreign banks. Few auxiliary services like domestic law firms, audit firms and other consultancy firms have opened offices in the IFSC. At present, there are no foreign law firms in the IFSC.[32] Recently, the government notified Global in-House Centres (GIC), as a financial service to provide services relating to financial products and financial services. GICs are typically wholly-owned subsidiaries in low-cost jurisdictions, which handle the back end operations of the parent entity, like high-end data processing, decision analytics or to provide financial services to the parent entity.

In the reinsurance landscape, GIC Re is the first entity to set up its operations in the IFSC in 2017. Earlier in 2021, GIC Re wound up its operations in the DIFC and shifted the Middle East business to the IFSC.[33] Other than GIC Re, The New India Assurance Co. Ltd and ICICI Lombard GIC Co Ltd have set up reinsurance operations in the IFSC. Since 2015, no foreign reinsurer has set up operations in the IFSC and all the existing eleven FRBs continue to operate from the DTA. Most of these FRBs are located in Mumbai.[34] Even the insurance intermediary market is gradually developing - so far 14 insurance intermediaries have obtained registration.[35] As per the data provided by the IFSCA (Table I.1), the net premium written in the GIFT IFSC has grown from USD 15.8 mn in 2019-20 to to USD 16.99 mn in 2020-21.

Table I. 1- Net premium underwritten by IIOs

(Amount in mn USD)

Financial Year	Net Premium
2016-17	0.23
2017-18	7.61
2018-19	13.01
2019-20	15.8
2020-21	16.99

Source: Data provided by IFSCA

[32] In February 2021, IFSCA issued a circular laying down a framework for ancillary services, where service providers can provide services including legal and audit services. As per the Circular, service providers include a branch or a subsidiary of a foreign entity. However, it is not clear how this circular would interact with the restriction under the Advocates Act, 1961 on setting up foreign law firms in India. See, IFSCA Circular F. No.206/IFSCA/Anc.Aux/2020-21 February 10, 2021

[33] Indian Express (August 15, 2021), *GIC puts Dubai branch in run off mode*. URL: https://indianexpress.com/article/business/gic-puts-dubai-branch-in-run-off-mode-7454108/

[34] IRDAI (May 18, 2021), *List of Reinsurance Branches*. URL: https://www.irdai.gov.in/ADMINCMS/cms/NormalData_Layout.aspx?page=PageNo3045&mid=3.3.9

[35] At present, there are only registered brokers, but no registered third-party administrators, loss assessors and surveyors in the GIFT City IFSC

Table I. 2- Entities established in GIFT IFSC between 2015- 2021

Type of entities	2015	2016	2017	2018	2019	2020	2021	Total
Banks	6	1	4	0	1	2	5	19
Insurance/reinsurance	1	0	0	2	0	0	1	4
Insurance intermediaries	0	2	3	2	6	1	0	14
Stock exchange	0	0	0	0	0	1	1	2
Clearing corporation	0	0	0	0	0	1	1	2
Stock brokers	0	0	31	8	7	5	2	53
Custodian	0	0	0	0	0	0	4	4
Depositories	0	0	0	0	0	1	1	2
Ancillary service providers	0	0	0	0	0	0	0	23
Alternative investment fund	0	0	0	0	0	1	7	8
Aircraft operating lease	0	0	0	0	0	0	7	7

Source: Directory available on the website of the IFSCA
Note: The list is indicative and not exhaustive.

Global value chain

As such, it appears from the pattern emerging from hubs such as DIFC and Singapore, that the new hubs may not replace the established centres, like London and Zurich. Rather, they are serving to extend the global reach of the market players based in those regional hubs.[36] Given the vast opportunities in the emerging markets, IFSC can definitely be benefitted by developing itself as a regional hub and becoming a part of the global value chain. For instance, the *Committee on Development of Avenues for Ship Acquisition, Financing and Leasing from IFSC in India* noted that given the substantial hull and marine and protection and indemnity insurance being underwritten for the Indian markets, IFSC has the potential to be a regional hub for marine insurance. With the incentives offered in GIFT City IFSC, insurance companies can set up regional offices and offices and service the region. This in turn can be used for reinsurance and investment of funds.[37]

Lastly, but very importantly, while there lies vast opportunities for the GIFT City IFSC to grow as a global reinsurance hub, central to this aspiration is the need for developing world class infrastructure and amenities. A common theme prevalent across the established financial

[36] Indian Merchant's Chamber (June, 2014), *A framework for developing a reinsurance hub in India,* URL: https://silo.tips/download/a-framework-for-developing-a-reinsurance-hub-in-india
[37] IFSCA (28 October, 2021), *Report of the Committee on Development of Avenues for Ship Acquisition, Financing and Leasing from IFSC in India.* URL: https://ifsca.gov.in/Viewer/ReportandPublication/17

hubs, is the international level of living, which stems from a combination of factors like infrastructure, ease of connectivity to other financial centres, hospitality, medical care, education opportunities, etc. While these factors may be sector-agnostic, GIFT City IFSC as an evolving financial hub, would have to create an ecosystem which may have positive externalities like growth of the insurance/reinsurance business. In designing the GIFT City as a world-class city, the attempt must be to recreate the quality of living offered by international centres like Singapore. Inescapably, this remains a crucial factor in attracting top-notch businesses and talent to the region.

CHAPTER II

Reinsurance Framework in GIFT IFSC

II.1 Evolution

In India, the creation of the IFSC is intertwined with the concept of SEZ. A SEZ is an area in which the business and trade laws are different from the rest of the country, or the DTA. It is a geographically demarcated area within a country's national borders, but not considered a part of the mainland. As a result, the flow of goods to the SEZ from the DTA is considered as imports and vice versa. Proponents of the SEZ approach argued that the fastest way to make progress in establishing an IFSC, is to demarcate a geographical area, provide special concessions by removing all limitations applicable in the mainland.[38] Although there have been criticisms of the SEZ approach, several Asian countries have enjoyed huge economic benefits from this model. India was one of the first Asian nations to recognise the benefits of SEZ and legislated the Special Economic Zone Act, 2005. Since then multiple SEZs for boosting manufacturing, export, and IT services have been established.

IFSC is a form of SEZ which specialises in financial services, and is expected to facilitate the flow of international capital and cater to the financial needs of customers in the SEZs, DTA and the offshore market.[39] GIFT City was set up as the first IFSC in 2015. Immediately after its creation, the government tried to create a conducive business environment in the IFSC by providing fiscal incentives, like income tax holiday for 10 years, exemption from other taxes like GST, dividend distribution tax, and a low rate of minimum alternate tax.[40] Until IFSCA was set up as a unified regulator in 2020, individual regulators like the SEBI, RBI, PFRDA and IRDAI continued to govern the financial markets in the IFSC.

II.2 Legislative and regulatory framework

The insurance/reinsurance regime in the IFSC can be divided into two phases. Phase I is before creation of the unified regulator - IFSCA. During Phase I, once the IFSC was set up, in March 2015

[38] Ministry of Finance (2007), *Report of the High Powered Expert Committee on Making Mumbai an International Financial Centre* (Chapter 1), URL:https://dea.gov.in/sites/default/files/mifcreport.pdf
[39] Section 18 of the SEZ Act, 2005 provides for the establishment of an IFSC in an SEZ. URL: http://sezindia.nic.in/upload/uploadfiles/files/SEZAct2005.pdf
[40] Section 10 (38), 11A, 98, 112A, 115JB and 115-O of the Finance Act, 2004

the government notified the IRDA (Regulation of Insurance Business in Special Economic Zone) Rules, 2015. Until the creation of IFSCA, IRDAI was the regulator of insurance/reinsurance business in the GIFT City IFSC.[41]

Phase II commenced when IFSCA was set up under the International Financial Services Centres Authority Act, 2019. IFSCA is India's first composite regulator, encompassing the powers of IRDAI, SEBI, RBI and the PFRDA in an IFSC. The rationale behind this fusion of powers is to avoid regulatory overlaps and bring certainty to regulatory governance and processes. While IFSCA was constituted in 2020, in October 2021, IFSCA issued a comprehensive regulatory framework for registration of insurance/reinsurance business and intermediaries in the IFSC.[42] Till then the IRDAI Guidelines continued to operate. For more clarity on the operational issues, IFSCA has also issued detailed guidelines for insurance/reinsurance offices and intermediaries.

With the intent to attract global reinsurers to the IFSC, the new regulations[43] provide more flexibility compared to the earlier IRDAI Guidelines.[44] For instance, the new framework allows both foreign and domestic insurers and reinsurers to start operations either by setting up branches or as incorporated entities (in Phase I only branch route was allowed). The major change brought in by the new regulations is that it allows a foreign reinsurer branch to operate in the IFSC under the guarantee of its parent company (maintaining assigned capital in the home country, following solvency margin of the home country, etc.) Demonstrating a clear departure from the IRDAI Guidelines, the new regulations offer a more liberal regime for insurance/reinsurance entities to flourish in the IFSC.

We discuss below some of the key features of the new regulatory framework applicable to reinsurance business including intermediaries.

[41] Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015
Insurance Regulatory and Development Authority of India {Registration and Operations of International Financial Service Centre Insurance Offices(IIO)} Guidelines, 2017
Insurance Regulatory and Development Authority of India (International Financial Service Centre Insurance Intermediary Office) Guidelines, 2019

[42] International Financial Services Centres Authority (Insurance Intermediary) Regulations, 2021
International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
International Financial Services Centres Authority (Operations of International Financial Services Centres Insurance Intermediary Offices) Guidelines, 2021
International Financial Services Centres Authority (Operations of International Financial Services Centres Insurance Offices) Guidelines, 2021

[43] Para 17 of International Financial Services Centres Authority (Operations of International Financial Services Centres Insurance Intermediary Offices) Guidelines, 2021

[44] The IRDAI Guidelines required maintenance of solvency margin at branch level, maintenance of assigned capital in government securities, investment of surplus after retrocession in government securities or in fixed deposits with government scheduled banks) under the earlier IRDAI Guidelines.

II.2.1 Licensing

- If the applicant is an Indian reinsurer registered with IRDAI, it has to obtain a o Objection Certificate (NOC) from the IRDAI for setting up an office in unincorporated form in the IFSC.[45] Further, an Indian reinsurer has to obtain prior approval from the IRDAI for setting up its subsidiary in the IFSC.[46]

- A foreign insurer/foreign reinsurer/Managing Agent (MGA)/Lloyds/Branch office of foreign reinsurer or Lloyd's India registered with IRDAI has to obtain NOC from its regulator in the home country for setting up an office in unincorporated form in the IFSC.[47]

- Applications for license are made to the IFSCA. Regulations do not prescribe a timeline on grant of registration or rejection. Applicants are entitled to 30 days for rectification of any deficiencies and will get the right of hearing before rejection of the application.[48]

- Insurance/reinsurance entities registered in the IFSC are called IFSC Insurance Office or IIO, whereas intermediaries are known as IFSC Insurance Intermediary Office or IIIO.

Table II.1 below gives the details of the fee charged by the IFSCA.

Table II. 1- Fee charged by the IFSCA

(Amount *in USD*)

Item	Amount
Application fee	1,000
Registration fee	5,000
Annual fee	5,000
Turnover fee	6,500 or 1/20th of the 1 % of total gross premium written by the IIOs, whichever is higher

Source: Circular No. 01/IFSCA/Insurance/2021-22

[45] Regulation 5(1)(b) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
[46] Regulation 7 of the Insurance Regulatory and Development Authority of India (Places of Business) Regulations, 2015
[47] Regulation 5(3)(a) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
[48] Regulation 8 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

II.2.2 Types of businesses

Following are the classes or subclasses of businesses for which the registration can be granted – life insurance business, general insurance business, health insurance business, and reinsurance business.[49] The IIO registered as a place of business of an Indian insurer or as a branch office of foreign reinsurer shall be permitted to transact such a class of business which is permitted to the applicant by its home country regulator.

II.2.3 Capital requirements

The new regulations allow a branch of a foreign reinsurance company to operate in the IFSC, subject to the guarantee of its parent company. This means the requirements have to be met at the level of the incorporated entity in the home country, not at the level of the branch in the IFSC. A foreign reinsurance company setting up a branch has to maintain Net Owned Funds (NOF) as per section 6(3) of the Insurance Act, 1938, which is INR 1000 Crore.[50] For an Indian insurer/foreign insurer/foreign reinsurer/MGA/Lloyds setting up a branch, it has to maintain the minimum assigned capital - USD 1.5 mn.[51] The capital may be maintained in the home country. Further, such assigned capital can be invested as per the requirements of its home country regulator or supervisory authority.

Finally, a public company, a wholly owned subsidiary of an insurer or a reinsurer, an insurance co-operative society or a body corporate seeking registration has to maintain paid up equity capital as per section 6 of the Insurance Act, 1938.

II.2.4 Solvency margin

Similar to requirements related to capital, a foreign branch needs to meet solvency margins, at the level of its parent entity, as per requirements of the home regulator.[52]

[49] Regulation 10 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

[50] In 2019, the Insurance Act, 1938 was amended to relax the net owned funds requirement in the IFSC. Earlier this requirement was INR 5,000 crore.

[51] Regulation 17 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

[52] Regulation 5(3)(a) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

- For Indian insurers and branch offices of the foreign insurers/reinsurers/MGA/Lloyd's, they are required to maintain solvency margins as per regulator in the home country. Situs of solvency margin would be the home country/country of incorporation.
- Assets backing solvency can be invested as per requirements of the home country regulator.
- For a public company, a wholly owned subsidiary of an insurer or a reinsurer, an insurance co-operative society or a body corporate, IFSCA is yet to specify the requirements.

II.2.5 Investment norms

At present, the IFSCA regulations do not explicitly lay down an investment framework. For IRDAI registered entities, IRDAI Investment Regulations, 2016 would continue to apply. Further, in the absence of explicit specification in this respect by IFSCA, it appears that IRDAI regulations may apply to incorporated entities in the IFSC, not being a subsidiary of the Indian insurer/reinsurer.[53]

II.2.6 Solicitation of business from DTA

IIOs may accept reinsurance business from cedants in the IFSC, other SEZs, from outside India and from insurers in DTA in accordance with the order of preference for cession specified under the IRDAI (Reinsurance) Regulations, 2018.[54]

II.2.7 Forex control

Any financial institution or branch of a financial institution set up in the IFSC and permitted/recognised as such by the government or a regulatory authority shall be treated as a person resident outside India.[55] All transactions must be carried out only in convertible foreign currency. However, the IIO can settle the claims only through its bank account maintained with any IFSC banking unit.[56]

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53 Section 13(1) and 34 of the International Financial Services Centres Authority Act, 2019
54 Regulation 15 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
55 Regulation 3 and 4 of Foreign Exchange Management (International Financial Services Centre) Regulations, 2015
56 Regulation 11 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

II.2.8 Risk transfer

No specific regulatory framework is provided for alternative risk transfer tools and ILS such as CAT Bonds. In the DTA, if the insurer intends to adopt alternative risk transfer and non-traditional structured solutions, it has to take prior approval of the IRDAI.[57] From the reading of the IFSCA Act, it appears that in the absence of regulations by IFSCA on this aspect, IRDAI regulations may apply to the entities in the IFSC.[58]

II.2.9 Retrocession

IIOs permitted to transact reinsurance business, cannot retrocede more than 50 % of its reinsurance business. Put differently, an IIO transacting reinsurance business has to retain 50 % of its risks.[59]

II.2.10 Share transfer

A public company granted registration as an IIO shall seek prior approval of the IFSCA for any change in its shareholding exceeding 5% of its paid up equity share capital.[60]

II.2.11 Corporate governance and accounting standards

On aspects like corporate governance and accounting standards, the foreign branches have the option to comply with the standards prescribed by their home regulator.[61] For incorporated entities, the Companies Act, 2013 shall apply.

II.2.12 Lloyd's market

Under the new regulations, IFSCA has laid down a separate framework for Llyod's and Lloyd's IFSC. This includes conditions for transacting insurance or reinsurance business, conditions for

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[57] Regulation 8 of the Insurance Regulatory and Development Authority of India (Re-insurance) Regulations, 2018
[58] Section 13(1) and 34 of the International Financial Services Centres Authority Act, 2019
[59] Chapter 3 of International Financial Services Centres Authority (Operations of International Financial Services Centres Insurance Offices) Guidelines, 2021
[60] Regulation 14 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
[61] Chapter V of International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

registration with the administrator i.e., Lloyd's IFSC, norms for establishing service companies of Llyod's IFSC, and registration of service companies. There are also norms for registration of managing agents in an IFSC.

II.2.13 Intermediary market

An entity can apply for the license either as an insurance distributor or insurance claim service provider.[62] Under the first category, it can further apply for four different classes of business, i.e., composite broker, corporate agent, direct broker and reinsurance broker. As the name suggests, a composite broker license allows a broker to engage in both direct insurance and reinsurance. An applicant registered or licensed as an insurance intermediary in a jurisdiction outside India can undertake any of the activities that can be performed by the insurance intermediaries under the regulations, by whatever name is called in the home country. For an IRDAI registered intermediary, an NOC from IRDAI is required for setting up an office in the IFSC.[63] If an intermediary is registered or licensed as an insurance intermediary in a jurisdiction outside India, it needs to obtain an NOC from its home regulator for setting up a branch office in the IFSC.[64] An incorporated entity, firm, cooperative society or a body corporate incorporated outside India can also apply for the license of an intermediary.

The applicant shall have minimum net worth or paid up equity capital, whichever is applicable, depending on whether it is a branch or some other form (See Table II.2 and II.3).[65] However, for a foreign branch, the minimum capital can be earmarked and held by the applicant in the country of its incorporation and invested as per the requirements of its home country regulator or supervisory authority.[66]

[62] Regulation 4(1) of the International Financial Services Centres Authority (Insurance Intermediary) Regulations 2021
[63] Regulation 4(2) of the International Financial Services Centres Authority (Insurance Intermediary) Regulations 2021
[64] Regulation 4(3) of the International Financial Services Centres Authority (Insurance Intermediary) Regulations 2021
[65] Regulation 4(4) of the International Financial Services Centres Authority (Insurance Intermediary) Regulations 2021
[66] Regulation 13 of the International Financial Services Centres Authority (Insurance Intermediary) Regulations 2021

Table II. 2- Minimum capital/net worth requirements for insurance Intermediary

(Amount in USD)

Category	Capital contribution	Net worth
Direct Insurance broker	1,00,000	80,000
Reinsurance broker	5,50,000	60% of minimum capital requirement
Composite broker	6,75,000	60% of minimum capital requirement
Corporate agent	75,000	75,000
Surveyor and Loss Assessor	Nil	Nil
Third party administrator	5,50,000	1,50,000

Table II. 3- Minimum capital/net worth requirements for insurance intermediary registered as a branch in the IFSC

(Amount in USD)

Category	Capital/contribution requirements
Direct insurance broker	10,000
Reinsurance broker	55,000
Composite broker	67,500
Corporate agent	7,500
Third party administrator	55,000

Similar to the registration process of insurance and reinsurance business, there is no timeline for grant of registration as an intermediary. After registration, every intermediary has to purchase and maintain a professional indemnity insurance cover throughout the validity of its registration. For an entity who has applied to set up a branch, it needs to maintain such indemnity policy at its head office in the home country.

At present, there is a ceiling on intermediaries that not more than 50% of the remuneration shall emanate from any one client in a financial year.

II.3 Role of the regulator

Under the IFSCA Act, 2019, IFSCA has a dual mandate — it is required to both develop and regulate the financial services market. Since its establishment in April 2020, it has taken several measures which are necessary for laying the foundation of a financial market in the IFSC. This primarily includes creating a regulatory framework for different financial services (like regulations for insurance market, capital market, banking operations, operation of bullion exchange) using a consultative process and innovative business-friendly initiatives. Several agreements have been signed with different bodies/institutions to facilitate capacity-building in the IFSC. For instance, IFSCA signed a MoU with the Gujarat Maritime University in 2021 to promote the Gujarat International Maritime Arbitration Centre (GIMAC). This will be India's first arbitration centre to address disputes related to maritime and shipping sector. Earlier, GIFT City IFSC had signed a MoU with the Gujarat National Law University to collaborate on efforts for skill development in the field of international financial services. In 2021, IFSCA signed a MoU with BIL Ryerson Technology Start-ups Incubator Foundation (BRTSIF), a joint venture between BSE Institute Mumbai and Ryerson University and Simon Fraser University, Canada to accelerate fintech innovation in the IFSC.

Taking cues from the success of the 'regulatory sandbox' approach in the DTA, IFSCA was prompt to replicate the experiment in the IFSC. To implement this initiative, IFSCA has designed a framework for a regulatory sandbox. Under this framework, entities from capital markets, insurance and other financial services will be given leeway to experiment with innovative fintech ideas.[67] These firms could test their innovative financial products in a live environment with a given set of people and timeframe. Entities interested in participating can apply to IFSCA, which will assess the application and grant the necessary regulatory relaxation. To further bolster innovation, IFSCA has proposed the creation of an 'innovation sandbox' to provide market related data to the start-ups since the data is not available readily. It will be a testing field isolated from the live market. Fintech firms can test their products based on the market-related data provided by the market infrastructure institutions operating in the IFSC.

In the next Chapters - III, IV and V of the report, we will study three international financial centres, London, Singapore and DIFC. For this purpose, we have categorised each centre into four broad themes, namely - the evolution of the financial/reinsurance hub, the prevalent legislative and regulatory architecture for the reinsurance market, business practices/innovations, and the developmental role of the regulator (if applicable).

[67] IFSCA, Circular - F. No. 71/IFSCA/CMD-RS/2020-21, 19 October, 2020 URL: http://www.giftgujarat.in/documents/Framework-for-Regulatory-Sandbox.pdf

CHAPTER III

Reinsurance Framework in London

Key takeaways
• London is globally ranked second in the list of financial centres around the world, as per the Global Financial Centres Index (GFCI) 30, 2021. • The London Market is one of the largest global insurance hubs with 110 billion dollars of GRP in 2018. Of this, USD 24 bn is the value of the reinsurance market premium. • The reinsurance market in the United Kingdom (UK) is highly regulated, but has allowed sufficient ease of doing business for domestic and foreign firms. All 20 of the world's leading reinsurance firms are represented in London. • As a leader in global banking, asset management, foreign exchange etc., London offers a variety of readily-available ancillary expertise within a small jurisdiction. • The London Market is witnessing increasing foreign-domiciled capital.   ○ 36% share of the London Market, in the year 2018, came from the USA, followed by the domestic market (UK), and then Ireland. • The UK follows a risk-based supervision framework – all firms must be compliant with the Solvency II Directive. It also follows a prudent investor regime in terms of investments made by firms. • The UK has created a framework to compete in the growing market for ILS. This lays out the corporate, regulatory and tax regime for UK domiciled Insurance Special Purpose Vehicles (ISPVs), which sponsors can use in ILS transactions.

III.1 Evolution of the insurance/reinsurance market

The UK is regarded as the birthplace of insurance. Developments in marine insurance during the 18th and 19th centuries paved the way for insurance as an integral part of commerce. The modern-day international insurance and reinsurance market at Llyod's benefited tremendously during these centuries, primarily from growth in maritime trade and the expansion of the British Empire. Alongside, the UK witnessed rising urbanisation, incomes, and property values. This allowed diversification in insurance offered to companies and individuals. The expansion of the UK insurance sector was privately funded, usually by local merchants.[68]

Reinsurance is understood to have developed slowly in this region. In the beginning, the reinsurance system adopted in England was the use of mutual risk-sharing with other direct insurers.[69] Such contracts were entered into with foreign insurers, mainly those in Belgium, Germany and France, to avoid revealing sensitive information to other British insurers. Reinsurance was also viewed as a way to enter foreign markets without needing to invest in physical offices in those jurisdictions.

In the present day, London remains Europe's most significant global finance centre despite Brexit. It retains the second spot (ranking) in a list of the best financial centres around the world, next only to New York, as per the latest GFCI.[70] The London insurance market is a significant part of the financial services industry in the UK. The 'London Market' is generally understood to be a distinct part of the UK insurance and reinsurance industry, located in the City of London area. This market primarily consists of insurance and reinsurance companies, and the syndicates of the Llyod's of London. The London Market is the hub of international insurance and reinsurance business operations. In the year 2018, it is recorded to have contributed 23% to the city GDP, and 37 bn euros to the UK's GDP.[71] Further, the London Market's capital is increasingly becoming global in source - between 2017 and 2018, share of London Market premium written by companies domiciled outside the UK has increased from 74% to 85%. The London Market remains the largest global insurance hub with USD 110 bn of GRP in 2018. Of this total, USD 52 bn is premium in commercial insurance, and USD 24 bn in the reinsurance market. This is despite faster market growth witnessed in Bermuda and Singapore.[72]

[68] Swiss Re, *A History of UK Insurance*, URL: https://www.swissre.com/dam/jcr:e8613a56-8c89-4500-9b1a-34031b904817/150Y_Markt_Broschuere_UK_EN.pdf
[69] David M. Holland (February, 2009), *A Brief History of Reinsurance*, Reinsurance News, Society of Actuaries, Issue 65, URL: https://www.soa.org/globalassets/assets/library/newsletters/reinsurance-section-news/2009/february/rsn-2009-iss65-holland.pdf
[70] Financial Centre Futures, ZYen and China Development Institute (September 2021), *The Global Financial Centres Index 30*, URL: https://www.longfinance.net/media/documents/GFCI_30_Report_2021.09.24_v1.0.pdf
[71] London Market Group, *London Matters 2020*, URL: https://lmg.london/wp-content/uploads/2020/05/London-Matters-2020-Digital-1.pdf
[72] London Market Group, *London Matters 2020*, URL: https://lmg.london/wp-content/uploads/2020/05/London-Matters-2020-Digital-1.pdf

III.2 Legislative and regulatory framework

Under the Financial Services and Markets Act, 2000 (FSMA), reinsurance companies in the UK are regulated by both the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA), which are responsible, respectively, for prudential regulation and conduct supervision of authorised firms.[73] The intermediaries, such as brokers, are regulated by the FCA.

Lloyd's of London is also regulated by, both, the PRA and the FCA. Lloyd's is not a statutory regulatory authority like the PRA and the FCA, however, it oversees and regulates the operation of the Lloyd's market and those operating within it. Lloyd's members underwrite on syndicates that are managed by Lloyd's managing agents. Lloyd's managing agents continue to be dual regulated by the FCA and the PRA, in addition to being regulated and supervised by Lloyd's. Members' agents and Lloyd's brokers are regulated by the FCA as well as Lloyd's.[74]

The London Market, operating in the City of London, offers no differential legal treatment for businesses operating within its jurisdiction. The legal and regulatory framework is the same across the UK (England and Wales) jurisdiction. The sub-sections below will provide an overview of the legal essentials required to do business in the UK reinsurance market.

III.2.1 Licensing a new reinsurance business

In order to conduct a reinsurance business in the UK, it is mandatory to obtain a Part 4A permission from the PRA.[75] The FCA must consent to the PRA's grant of permissions for new reinsurance companies.

To obtain a Part 4A permission, an applicant must be able to satisfy minimum conditions on an ongoing basis. These include demonstrating that a firm's head office is in the UK or that it carries on business in the UK, sufficient capitalisation to carry on the reinsurance business, and that appropriate management systems and controls are in place.[76]

[73] Financial Services and Markets Act, 2000 (amended), URL: https://www.legislation.gov.uk/ukpga/2000/8/contents
[74] Debevoise and Plimpton LLP (June 2020), *Insurance and reinsurance regulation in the UK*, URL: https://www.lexology.com/library/detail.aspx?g=83730bb4-1178-4165-ae6d-7443dd89784a
[75] The EU's passporting regime was followed until December, 2020, after which the Brexit transition period for UK businesses ended. At the time of writing this report, it is understood that the transition period has ended. However, this may be confirmed with external experts.
[76] Debevoise and Plimpton LLP (June 2020), *Insurance and reinsurance regulation in the UK*, URL: https://www.lexology.com/library/detail.aspx?g=83730bb4-1178-4165-ae6d-7443dd89784a

Generally, the level of ongoing oversight over such businesses varies by (i) the size of the business, (ii) type of business it underwrites, and (iii) risks posed to consumers (as defined under the FSMA) and the general financial system.[77]

III.2.2 Process of obtaining regulatory permission

Authorisation is a structured process[78]:

1. Pre-application (non-mandatory) - meet with the PRA and FCA to understand the process, regulatory expectations, concerns etc. There is an Initial meeting, Feedback meeting, Challenge session just before application is made.
2. Formal application (mandatory) - online form to be filed with application fees. Both regulators will make independent decisions on financial and non-financial soundness.

In essence, both the regulators have a policy of supporting the applicant through continuous engagement and feedback on key aspects of starting and conducting a reinsurance business in the UK.

In the case of a complete application, the regulatory permission is to be provided (mandated by statute) within 6 months, whereas in the case of an incomplete application, it is provided within 12 months.

III.2.3 Conducting reinsurance business

Capital requirements are embodied in the Solvency II Directive (2019/138/EC). With the approval of the regulator, companies can develop their own internal risk-based capital models according to their economic capital needs relative to their risk profile. However, the required capital requirements have two distinct levels: a minimum capital level representing the minimum amount of capital that an reinsurer needs to cover risks (which goes beyond just underwriting risks), and a Solvency Capital Requirement (SCR), which is effectively the amount of capital that an insurer or reinsurer requires to operate as a going concern (assessed on value at risk measure).[79]

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[77] Debevoise and Plimpton LLP (November 2020), *Insurance and reinsurance in the UK (England and Wales)*: Overview, URL: https://uk.practicallaw.thomsonreuters.com/0-501-2031?transitionType=Default&contextData=(sc.Default)&firstPage=true
[78] Prudential Regulation Authority and Financial Conduct Authority (August 2018), *New Insurer Start-Up Unit, What you need to know about the PRA and the FCA*, URL: https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/new-insurer/new-insurer-start-up-unit-guide.pdf?la=en&hash=310E7B09C241113F97CDDCC36F339DAF90911057
[79] Debevoise and Plimpton LLP (June 2020), *Insurance and reinsurance regulation in the UK*, URL: https://www.lexology.com/library/detail.aspx?g=83730bb4-1178-4165-ae6d-7443dd89784a

The SCR should be held to ensure that the company can meet its obligations to policyholders and beneficiaries with certain probability and should be set to a confidence level of 99.5% over a 12-month period. The minimum capital level is set at a confidence level of 85%.

A reinsurer must not carry on any business other than the business of reinsurance and ancillary activities such as actuarial advice or risk analysis. In the UK, companies need specific regulatory authorisations for the particular business (whether insurance or reinsurance) they seek to operate.

III.2.4 Investments

Solvency II has introduced a less prescriptive approach to investments - the prudent investor regime. This regime essentially requires insurers to invest in assets that match their liabilities in terms of liquidity and duration of holding. Additionally, they can invest in assets that they perceive to be of sufficient quality.

III.2.5 Foreign ownership

The UK is understood to have no specific restrictions on investments in reinsurance companies by foreign persons.

III.2.6 Counterparty default risk

As mentioned previously, since 2016, the Solvency II directives require firms to manage risk in a prudent form. Many UK regulated insurance firms transfer risk through intra-group reinsurance. Where a firm reinsures to a single or only a few counterparties (or connected counterparties), it can be exposed to a significant concentration of counterparty default risk. The PRA expects firms to prudently manage such concentration aspects of reinsurance counterparty default risk under Solvency II. Conditions Governing Business 3.1(2)(c)(iv) requires firms to have a risk management system covering concentration risk management. This includes all risk exposures with a loss potential which is large enough to threaten the firm's solvency or financial position. Further, Conditions Governing Business 3.1(2) makes clear that the risk management system must cover risks which are covered by the SCR as well as those which are not, or not fully included in the calculation of the SCR.[80]

[80] Prudential Regulation Authority (November 2016), *Solvency II: reinsurance - counterparty credit risk, Supervisory Statement* | *SS20/16*, URL: https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2016/ss2016.pdf?la=en&hash=9A9BBF8078D76DC8A6DC407A57EE510AA6D86355

III.2.7 Collateral requirements

There are no prescribed limits for collateral to be put up by reinsurers under the current legal framework. The ceding insurer and the reinsurer can agree to whatever form of collateral (if any) they choose. In December 2018, a bilateral Covered Agreement was signed between the United States of America (USA) and the UK ("US-UK Covered Agreement") on prudential matters concerning insurance and reinsurance.[81] A similar agreement previously existed between the USA and the EU but the new one was necessary in light of the UK leaving the EU. The US-UK Covered Agreement eliminates reinsurance collateral and local presence requirements for UK reinsurers that maintain a minimum amount of own funds (USD 250 mn) and a SCR of 100% under Solvency II directives. Conversely, US reinsurers who maintain a capital and surplus requirement of 226 mn euros with a risk-based capital of 300% of authorised control level would not require local presence in order to do business in the UK.

The covered agreement assumes significance in light of the fact that 36% share of the London Market, in the year 2018, came from the USA, overtaking the UK and Ireland as the largest source of income.[82]

III.2.8 Taxation

General reinsurance businesses are subject to the normal rules governing the taxation of companies in the UK (ie, corporation tax).[83]

III.2.9 Dispute resolution

Reinsurance contracts placed in the London Market are governed by English law and subject to the jurisdiction of English courts. They may also be resolved in arbitration proceedings in London even if all the parties concerned are not UK companies.

The Commercial Court, a specialist court which is part of the Business and Property Court of the High Court of Justice, has expertise in handling domestic and international business disputes. The availability of a specialist judiciary which is well-versed with the practices of the London Market is

[81] Eversheds Sutherland (August 2019), *Covered Agreement - An Overview*, URL: https://us.eversheds-sutherland.com/mobile/NewsCommentary/Legal-Alerts/196936/Covered-AgreementAn-overview
[82] London Market Group, *London Matters 2020*, URL: https://lmg.london/wp-content/uploads/2020/05/London-Matters-2020-Digital-1.pdf
[83] Debevoise and Plimpton LLP (November 2020), *Insurance and reinsurance in the UK (England and Wales): Overview*, URL: https://uk.practicallaw.thomsonreuters.com/0-501-2031?transitionType=Default&contextData=(sc.Default)&firstPage=true

understood to instil confidence in doing business in the area. Additionally, the jurisdiction also has a highly developed body of case law in the insurance and reinsurance sector. Parties can thus proceed with doing business relying on a reasonable level of predictability from the judiciary. Finally, London offers a world class pool of arbitrators (especially in the reinsurance sector). Arbitration is a preferred mode of alternative dispute resolution in the region.[84]

III.2.10 Employment laws

The general labour and employment laws that apply through the UK jurisdiction apply to the London Market concentration area.

III.2.11 Market for intermediaries

The Insurance Distribution Directive (IDD) applies to and requires authorisation both of independent intermediaries (eg, insurance brokers) and of reinsurers insofar as they conduct reinsurance mediation activities. All those intermediaries involved in selling and underwriting a reinsurance contract will require a licence unless they can benefit from an exemption.

The regulatory requirements applicable to intermediaries mostly mirror many of the requirements applicable to reinsurers, including principles for business and conduct of business. All intermediaries, including appointed representatives, must be registered on the Financial Services Register.

III.3 Special attributes of conducting reinsurance business in the London Market

III.3.1 Concentration

London's share of the global commercial reinsurance market[85] has remained steady overall at 7.6% since 2010. The market is reported to have provided 47,000 jobs in the year 2018. Of these, around two-thirds were within London and the remaining outside the city area. The highest concentration in the market (including brokers and other intermediaries) is understood to be around the EC3 area in the City of London, allowing easy access and greater opportunities for meetings, easy exchange of ideas etc.

[84] Ince (April, 2021), *A general introduction to the insurance and reinsurance markets in the UK (England and Wales)*, URL: https://www.lexology.com/library/detail.aspx?g=0a8c90f1-859a-4137-88ca-796d33681e4b
[85] London Market Group, *London Matters 2020*, URL: https://lmg.london/wp-content/uploads/2020/05/London-Matters-2020-Digital-1.pdf

III.3.2 Insurance specialties

Project and sector expertise built over decades of business in specific lines is seen to greatly benefit the London Market. Despite the global market itself shrinking by 10%, London has been able to grow its share in the specialty lines in 2018. The aviation, energy and marine specialty lines enabled most of this growth. The market's underwriting expertise in these fields is tapped into by global businesses. The Llyod's of London plays a significant role in building specialty expertise that London is renowned for. In 2018, USD 47.4 bn out of the USD 100 bn in GRP was represented by Llyod's alone.[86]

III.3.3 Global reach

For a sector that is as globally interconnected, London, as one of the top-notch international cities of the world, offers a high-quality base to do business. London remains the only place where all 20 of the world's leading reinsurance firms are represented.[87] London has a reputation for consistently and fairly paying large scale claims across the world, especially in Asian and African regions where catastrophes have struck. The ability to traverse large complex claim situations and to do so globally, comes from the necessary expertise and volume of transactions handled through decades.

The London market is witnessing increasing foreign-domiciled capital. Apart from the USA, the Asian market's interest in London is on the upside. Investment from Japan and Korea has been driven both by the need for insurers from both countries to expand beyond stagnant domestic markets, as well as the need to develop the capability to compete in the more complex overseas property and casualty risk markets. Between 2013 and 2018, there were five major deals involving Asian capital providers, predominantly from Japan.[88]

Capital providers in emerging markets have also been investing in the London Market – China Re in 2012 and GIC Re from India in 2018.

III.3.4 Parallel access to a global financial centre

[86] London Market Group, *London Matters 2020*, URL: https://lmg.london/wp-content/uploads/2020/05/London-Matters-2020-Digital-1.pdf
[87] AON (supported by the City of London), *The London Insurance Market: Beyond 2021*, URL: https://www.aon.com/getmedia/aa6bebae-286e-4f73-afc7-ff0b168746d2/13883-London-Insurance-Sector-Beyond-2021-Report_v07.aspx
[88] London Market Group, *London Matters 2020*, URL: https://lmg.london/wp-content/uploads/2020/05/London-Matters-2020-Digital-1.pdf

The cross-sector global presence in London supports the insurance ecosystem. London is one of the world's main financial and business hubs. As a leader in global banking, asset management, foreign exchange, fintech and ESG, it offers a variety of ancillary expertise within its jurisdiction. Professionals, with sufficient knowledge and experience in handling global transactions, are based out of the same region. This includes lawyers, accountants, and actuaries and analysts. The availability of this wide range of high-quality services affords London the unique ability to navigate the evolving global risk landscape.

III.4 Innovation

London's long-term competitiveness may need to be bolstered against competing reinsurance markets in Bermuda and Singapore. While its traditional strength areas in underwriting will hold it in good stead, the ability to adapt to newer, innovative vehicles of conducting business, especially with other emerging economies will be key. In this respect, some initiatives are highlighted below.

III.4.1 Syndicate in a Box

The Future at Lloyd's project was rolled out to mark innovative and easy ways for new sources of capital to come into the market. This is to be facilitated, in part, by the Syndicate-in-a-Box (SiaB) initiative.[89] Under this initiative, syndicates enter and trade at Llyod's for a fixed period of three years, under adjusted entry and participation criteria. There is reduced initial capital load proportionate to the risks written. Further, there is no requirement to be based physically in London. The syndicate receives access to the services hub as well as the claims, risk and capital platforms.

Under such an initiative, Lloyd's has mandated that vehicles ought to underwrite business in new and emerging areas, not those that are already traditionally done in the Llyod's market. Munich Re is understood to have launched the first SiaB under this market. In keeping with the mandate, it is reported to be focusing on green energy, autonomous vehicles etc.[90]

III.4.2 Insurance Linked Securities Regime

[89] Llyod's, *What is a Syndicate-in-a-Box?*, URL: https://www.lloyds.com/join-lloyds-market/underwriter/syndicate-in-a-box
[90] Reinsurance News (October, 2019), *Munich Re sponsoring first SiaB at Llyod's*, URL: https://www.reinsurancene.ws/munich-re-sponsoring-first-syndicate-in-a-box-at-lloyds/

ILS are an alternative form of risk mitigation for insurers and reinsurers. These transactions securitise insurance returns into assets that traditional capital market investors can invest in.[91] Cat Bonds are a common type of ILS. Collateralised reinsurance (CRe) is another type of ILS, which includes a fully collateralised Special Purpose Vehicle (SPV) apart from the general reinsurance arrangement. The need for specialist expertise in carrying out ILS deals has been on the increase.

The UK government committed itself to the creation of a framework to compete in the growing market for ILS. The extant legislative framework for the ILS, lays out a corporate, regulatory and tax regime for UK domiciled ISPVs, which sponsors can use in ILS and CRe transactions.

Broadly, the ILS regime in UK has these characteristics:[92]

- Introduction of a Protected Cell Company (PCC) regime: An ISPV is a company that assumes insurance or reinsurance risks through a risk transfer contract with a sponsor. ISPVs usually do not have any assets or liabilities other than those required to enter into the risk transfer contract. The same ISPV may also be used for multiple deals, saving time and other expenses. However, under the Solvency II directives, there ought to be segregation of transactions. As such, the PCC regime was necessary. A PCC will be a private company limited by shares where it will have a legal personality as a whole, but the cells do not individually have legal personality. Assets and liabilities assigned to a cell are ring-fenced from other cells in the PCC and also the PCC core.
- ISPVs undertaking 'risk transformation' receive benefits: A new regulated activity called insurance risk transformation is introduced. As per its definition[93]:
  "… a transformer vehicle to assume[s] a risk from an undertaking where: (a) the undertaking assumes a risk under a contract of insurance ("the underlying risk"); and (b) the assumption of risk by the transformer vehicle has the legal or economic effect of transferring some or all of the underlying risk to the transformer vehicle."
  This implies that ISPVs in the UK can carry out only reinsurance business, not direct insuring activities.
- Favourable tax regime: The qualifying transformer vehicles (i.e. ISPVs who qualify as undertaking 'risk transformation') will not have to bear corporate tax.

[91] Norton Rose Fullbright (September, 2017), *New United Kingdom insurance linked securities (ILS) regime*, URL: https://www.nortonrosefulbright.com/en-au/knowledge/publications/898f8503/new-united-kingdom-insurance-linked-securities-ils-regime
[92] AON (supported by the City of London), *The London Insurance Market: Beyond 2021*, URL: https://www.aon.com/getmedia/aa6bebae-286e-4f73-afc7-ff0b168746d2/13883-London-Insurance-Sector-Beyond-2021-Report_v07.aspx
[93] UK Risk Transformation Regulations, 2017

CHAPTER IV

Reinsurance Framework in Singapore

Key takeaways
• Singapore is globally ranked fourth in the list of financial centres around the world, as per the GFCI 30, 2021. • The Singapore market was able to establish an offshore reinsurance hub with USD 7.3 bn annual gross premium without having a strong domestic insurance market. • Singapore could establish itself as a reinsurance hub owing to the financial infrastructure already in place for offshore transactions due to the Asian Dollar Market (ADM). It is understood that a reinsurance market cannot be developed in isolation. It is a part of a bigger financial system. For a reinsurance market to thrive, it needs the infrastructural support of a financial hub. • The regulator - the Monetary Authority of Singapore (MAS) is a highly proactive regulator that performs developmental and promotional functions along with supervisory functions of the market. Hence, a regulator must play a proactive role in nourishing and helping the sector grow. It must focus on capacity building of its staff and the market players. • The MAS incentivises businesses through a lot of schemes. It has immensely helped the market grow and helped build a trust between the regulator and the players. For example providing for a framework for issuing CAT Bonds. Hence, to nudge the players towards taking up the upcoming trends in the market, the regulator must study them and formulate incentivising schemes. It gives the market a first mover's advantage and establishes their expertise. • MAS follows a Risk-based Capital (RBC) Framework where the capital requirements are aligned to an insurer's business and risk profiles. It also allows for a prudence based investment framework where the players have to exercise prudence while investing the funds and disclose their investments to the regulator.

IV.1 Evolution of the insurance/reinsurance market

Singapore gained independence in 1965, and in the short span of 50 years, it has emerged as a global financial centre. It leads in providing risk management services, especially reinsurance, to the South Asian region. It is a peculiar example of the world's only city-state, spread over a mere 718 km sq, emerging as a global financial centre due to the convergence of historical, political and policy factors.[94]

In Singapore, the direct insurance market was closed until 2000, whereas it had an open admission policy for reinsurers. A foreign reinsurance player could operate in Singapore and provide reinsurance services to the persons in Singapore either through a wholly-owned service company, or under a foreign scheme.[95] But, there were limitations in the direct insurance market. A foreign direct insurance player could only own a domestic direct insurance business to the extent of 49 %. This may have been done to avoid excessive competition in its small direct insurance market, which had an adequate number of players.[96]Despite closed domestic markets, the offshore insurance business flourished, and the majority of this growth was fuelled by the offshore reinsurance business.

Table IV. 1- Gross premiums from offshore and onshore insurance business

(Amount in USD bn)

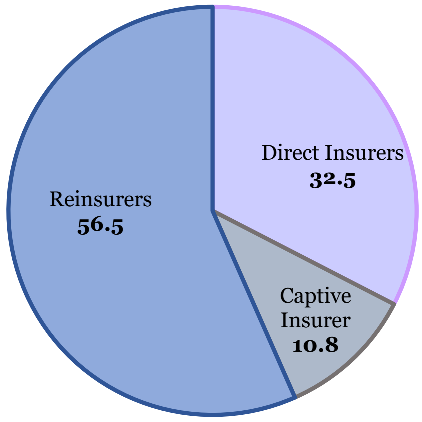
	2000	2010	2020
Onshore Insurance Premium	1.7	3.2	4.3
Offshore Insurance Premium	1.7	5.3	12.9

Source: Annual Reports of Monetary Authority of Singapore 2000-01, 2010-11 and 2020-21

Table IV.1 shows that between 2000 and 2020, the gross offshore insurance premium jumped from USD 1.7 bn to USD 12.9 bn. The onshore insurance premium grew from USD 1.7 bn to USD 4.3 bn in the same time. This growth in Singapore's offshore insurance business was primarily driven by its offshore reinsurance market, as it constitutes 56.5 % of its offshore insurance business (See, Figure IV.1). This particular attribute of the growth trajectory of Singapore's offshore insurance business makes it an ideal jurisdiction for our study.

[94] J. J. Woo (2016), Palgrave Macmillan Studies in Banking and Financial Institutions, *Singapore as an International Financial Centre: History, Policy and Politics,* URL: https://link.springer.com/book/10.1057/978-1-137-56911-0
[95] Foreign insurer schemes are light touch frameworks that allow foreign insurers to solicit business in Singapore without having a physical presence. For ex - Authorised Reinsurer Scheme.
[96] Erlinda M. Medalla (ed.) (2207), *Competition Policy in East Asia. London & New York*, URL: https://www.routledge.com/Competition-Policy-in-East-Asia/Medalla/p/book/9780415435994

Figure IV.1- Premiums from offshore insurance in 2020



Source: Annual Insurance Statistics of 2020-21, Monetary Authority of Singapore

Offshore reinsurance market

In this section, we discuss the factors responsible for making Singapore an offshore reinsurance hub.

IV.1.1 Asian Dollar Market

After independence in 1965, Singapore soon witnessed an influx of FDI in the country as development aid, in parallel with the establishments of MNCs. In 1968, the government, sensing an opportunity, moved towards establishing the ADM to facilitate international capital flow. ADM means a currency market where currencies, except the legal tender in the jurisdiction, are traded. This market concept is similar to offshore financial centres, whose job is to facilitate the flow of capital for the market players from a neighbouring industrial centre with restrictions on capital flow.

In 1968, the government allowed the foreign banks to come in and set up an Asian Currency Unit (ACUs) within their organisation through which they could conduct offshore businesses.[97] ACUs were lightly regulated since they were required to conduct business only in foreign currencies and only with non-residents. The government further provided them with a conducive business environment. For example, withholding tax was removed and the foreign banks were allowed to do business through a branch structure. With the increase in offshore services, the financial sector

[97] Tan Chwee Huat, (2004), *Financial Services in Singapore*

in Singapore witnessed a steady growth. ACUs contributed significantly towards this growth – by 1993, ACUs represented 66 % of the assets of the whole financial sector.[98] Along with a positive impact on the economy, it generated a pool of skilled workforce. In the year 1976, 24.4 % of highly skilled people were employed in the financial sector.

Experience from Singapore shows that its reinsurance sector flourished alongside a vibrant financial sector. For an insurance/reinsurance sector to evolve, it needed a stable and diverse financial sector with a sound international monetary system to ease the flow of capital and allow the players to access various financial instruments. In 2020, the aggregated balance sheet of reinsurance players represented USD 16.3 bn in total assets. Out of this USD 16.3 bn, USD 6.8 bn were invested in debt securities.[99] Singapore provided the access to diverse financial instruments needed by the reinsurance industry for operations including risk hedging.[100]

The creation of ADM led to the foundation of Singapore's robust financial infrastructure which had a cumulative effect on the growth of the offshore reinsurance sector.[101]

IV.1.2 Geographical factor

The reinsurance market could grow because reinsurance as a service needs a huge diversified pool of capital. Since Singapore was globally integrated through ACUs, it provided a fertile ground for reinsurance players. For diversifying their risks, reinsurance players could get access to the global capital. However, its geographical factor of being surrounded by booming ASEAN economies with an increasing need for risk management services generated demand for insurance/reinsurance activities. Singapore developed as a regional offshore reinsurance hub by providing the majority of the services to clients in Australia, China, India, Japan, Thailand and Indonesia - China is increasingly cornering the majority of the offshore reinsurance services (see Table IV.2). This trend is true for most offshore financial centres which are often in proximity with major industrial centres, who are usually their primary clients. For example, most of the risk management services of another major global offshore reinsurance hub - Bermuda, are consumed by its immediate neighbour - the USA.

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[98] This distinction was removed in 2020. The MAS is slowly integrating the foreign players in the domestic market. The initial buffer was given to allow the domestic banks to build their capabilities, URL: https://www.mas.gov.sg/annual_reports/annual20002001/Liberalisation-annual-c.html
[99] Table AG 16, Insurance Statistics 2020, Monetary Authority of Singapore, URL: https://www.mas.gov.sg/statistics/insurance-statistics/annual-statistics/insurance-statistics-2020
[100] Similarly, one of the reasons Bermuda could grow in the 70s as a reinsurance centre was the regulatory regime that allowed the companies to take on additional risk using derivatives. Jennifer Donohue et al (2011), *Sleeping giants: insurance alchemy and Insurance Special Purpose Vehicles*, URL: https://www.cadwalader.com/uploads/books/e9f4ab80f812e969cd39181af9be2926.pdf
[101] NK Jin (1996), *Singapore as a Financial Centre: New Developments - Challenges, and Prospects,* URL: https://www.nber.org/system/files/chapters/c8569/c8569.pdf

Table IV. 2- Country-wise split of offshore reinsurance premium

(Figures in %)

Territory	2016	2017	2018	2019	2020
Australia/New Zealand	15.5	11.1	10.7	10.5	8.2
China	14.3	19.1	34.7	37.8	54.8
India/Pakistan/Sri Lanka	16.5	9.7	7.3	5.4	7.9
Indonesia	5.5	5.1	3	2.9	3.4
Japan	10.1	10.2	13.7	16.4	5.5
Korea	7.7	7.4	6.8	3.3	5.9
Thailand	10.1	12.5	8.3	7.1	8.6
Others	20.3	24.9	15.5	16.6	5.7
Total	100	100	100	100	100

Source: AG 17, Gross Premiums of Offshore Insurance Fund Business by Territory (Reinsurers) - Insurance Statistics 2020, MAS

IV.1.3 Infrastructure of a financial centre

China's share in Singapore's offshore reinsurance increased after the Singapore government signed a free trade agreement with China in 2013. The People Bank of China appointed ICBC, Singapore, as the Renminbi (RMB) clearing bank, and, as a result, Singapore now offers several RMB products. Singapore's financial infrastructure has become the link for channelling globally held RMB into Chinese capital markets.[102] Supply of offshore reinsurance services to China also grew at the same time since there was a robust financial infrastructure to facilitate the flow of capital between the two countries.

IV.2 Legislative and regulatory framework

The primary legislation for the insurance sector is the Insurance Act, 1966 (Cap. 142); an entity must be licensed or authorised as per this law for carrying out insurance business. This legislation bifurcates the offshore and onshore operations of the insurance company. Section 17 (1) of the Insurance Act requires the separation of funds of an insurance company for its onshore and offshore businesses. An insurance company can only do onshore business from its Singapore Insurance Fund (SIF) and offshore business from its Offshore Insurance Fund (OIF). Further, there are distinct regulatory requirements for different insurance players:

- Direct life insurers are licensed to write life policies and long-term accident and health policies. Direct general insurers can write policies for general business (financial

[102] Jiaxing Hu (2016), *Finance, Rule of Law and Development in Asia: Perspectives from Singapore*, URL: https://brill.com/view/title/31615?contents=editorial-content

guarantee, political risk, trade credit etc.) other than life, long-term accident and health policies.

- Direct composite insurers can write direct life as well as general insurance.
- Captive insurers can underwrite the risks of their corporate group entities.
- Reinsurers can underwrite the risk of direct insurers. They cannot underwrite direct business and can only take on the risk of direct insurers or reinsurers. They are permitted to write life and general reinsurance business.

This legislation is complemented by guidelines and codes issued by the regulatory authority - MAS. Guidelines (best practice standards for specified institutions and persons) and Codes (rules for the conduct of the concerned activities), which do not have the force of law. However, they are expected to comply with them, since non-compliance will impact the institution's risk assessment by the MAS as Singapore follows the RBS framework. MAS may issue a non-statutory sanction like a private reprimand for non-compliance. Singapore also has trade associations of the players, such as the General Insurance Association (GIA) and Reinsurance Brokers' Association (RBAS) which issue guidelines and codes for the players. Hence, they too regulate the conduct of the players.[103]

Foreign players can operate through specific schemes which regulate their conduct. The schemes are as tabulated below:[104]

Table IV. 3- Schemes for foreign players

Foreign Insurer Scheme	Marine, Aviation and Transit (MAT) Scheme[105]	Authorised Reinsurer Scheme[106]
Under a foreign insurer scheme as per Part IIA of the Insurance Act, insurers approved in a foreign jurisdiction to do insurance business can conduct insurance business in Singapore through locally-incorporated service	MAT insurer scheme allows foreign insurers to conduct direct insurance business in specified sectors without having a presence in Singapore.	Authorised Reinsurers are foreign insurers who can underwrite reinsurance business (life or general) to persons in Singapore without having a presence.

[103] Wong Partnership LLP(2021), *Singapore Insurance and Reinsurance*, URL: https://www.wongpartnership.com/upload/medias/KnowledgeInsight/document/14859/TheLegal500-InsuranceandReinsurance.pdf
[104] Monetary Authority of Singapore, *Types of Insurers*, URL: https://www.mas.gov.sg/regulation/Insurance/Types-of-Insurers-in-Singapore
[105] Regulation 3 of the Insurance (Approved Marine, Aviation and Transit Insurers) Regulations, 2004
[106] Section 34 of the Insurance Act, 1966

Foreign Insurer Scheme	Marine, Aviation and Transit (MAT) Scheme[105]	Authorised Reinsurer Scheme[106]
companies.[107] There are two schemes at present - Lloyd's and Lloyd's Asia Scheme.		

**Foreign reinsurers can also provide service to persons in Singapore if they did not solicit the arrangement.*

To sum up, an entity can solicit insurance/reinsurance business on a cross border basis from Singapore, after they are registered with the regulator - MAS.

IV.3 Regulatory framework for reinsurance business in Singapore

IV.3.1 Licensing

Reinsurance business happens either through getting licensed from the MAS as a reinsurer or a Special Purpose Reinsurance Vehicle (SPRV).[108] It takes 6 to 8 weeks for reinsurers to get a license for life or general reinsurance business and 2 to 4 weeks[109] for a license for SPRV. Processing time may vary as each application is considered on a case to case basis. For granting reinsurance license, MAS looks at the following factors:

- *"Domestic and international rankings of the applicant by factors such as premiums and assets.*
- *Past and present credit ratings by international rating agencies.*
- *Track record, financial soundness and reputation of the applicant, including the applicant's compliance with its home regulations. In assessing this criteria, MAS consults the applicant's home supervisory authority.*
- *Well-developed business strategy and detailed plans that reflect the risk profile of the business.*
- *Robust risk management systems and processes that are commensurate with the size and complexity of the licensee.*
- *Fitness and propriety of the licensee, any director or key executive person, all of its substantial shareholders, and all persons having effective control of the licensee."*

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[107] Wong Partnership LLP(2021), *Singapore Insurance and Reinsurance*, URL: https://www.wongpartnership.com/upload/medias/KnowledgeInsight/document/14859/TheLegal500-InsuranceandReinsurance.pdf
[108] Insurance (General Provisions and Exemptions For Special Purpose Reinsurance Vehicles) Regulations, 2018
[109] Insurance (General Provisions and Exemptions For Special Purpose Reinsurance Vehicles) Regulations, 2018

In addition to the above conditions, MAS looks at the following factors for SPRV:

- *"SPRV to be established as a bankruptcy remote vehicle*[110] *separate from the ceding insurer or originator.*
- *Ability of the SPRV to remain fully funded at all times.*
- *Competence and expertise of its proposed managers in insurance management."*

The applicant will also be subject to corporate regulatory requirements. It will have to register its business with the Accounting and Corporate Regulatory Authority as a locally incorporated company under the Companies Act or as a branch of a foreign company.

Functioning of SPRV
SPRV is a subsidiary created by the parent entity to isolate financial risk by collateralising and transferring the risk to the capital markets. Obtaining capital from the traditional insurance market for risks with huge exposures is not easy, hence reinsurers seek to collateralise the risk and source the capital from the capital market through SPRVs, using ILS such as CAT Bonds. Generally, SPRV enters into a contract to reinsure a risk with a ceding insurer, for example a catastrophe. The SPRV then transfers the risk to the capital markets in the form of bonds or note issues. The proceeds from the issue are kept in a trust for the benefit of the ceding insurer. The SPRV then uses the premium paid by the ceding insurer under the insurance contract to meet the payment obligations of the investors/bondholders. If the event insured never occurs, the bondholders get their principal amount back. However, if the event occurs then the bondholders lose their principal amount which gets transferred to the ceding insurer.[111] It has unique benefits for reinsurers – these bonds can provide multi-year capacity and pricing certainty; they are more secure due to their fully collateralized nature; they are capital efficient; and a good alternative for traditional reinsurance for risk that is hard to model.[112]

[110] SPRV is created by the parent company to isolate or securitize assets in a separate company which is kept off the balance sheet. The separate company structure assures the investors of repayment and keeps its obligations secure even if the parent company goes bankrupt.
[111] Thomas Bicknell (November, 2013), *Securitisation of Insurance*, Al Tamimi & Co., URL: https://www.tamimi.com/law-update-articles/securitisation-of-insurance/
[112] Official Keynote Address by Mr Lim Hng Kiang, Minister for Trade and Industry (Trade), Deputy Chairman, Monetary Authority of Singapore, at the 14th Singapore International Reinsurance Conference (1 November, 2017), "*Metamorphosis: Singapore as a Global Capital for Asian Risk Transfer*", URL: https://www.mas.gov.sg/news/speeches/2017/metamorphosis-singapore-as-a-global-capital-for-asian-risk-transfer

IV.3.2 Supervisory framework

Unlike a solvency framework which provides for one formula for the entire market and relies on undisclosed margins and approximations, Singapore follows the RBC framework.[113] In RBC the requirements are aligned to an insurer's business and risk profiles - Singapore first shifted to RBC in 2004, subsequently they shifted to RBC 2 in 2016. It is developed as per international standards and good practices which reflects upon the true financial conditions of the insurance companies. It is risk-focused and ensures greater transparency to facilitate comparisons across insurance companies.[114]

IV.3.3 Capital and fees

Table IV.4 - Minimum paid capital and annual fee[115]

(Amount in USD)

Minimum Paid Up Capital for Reinsurers	25 Million
Annual Fee for Life and General Reinsurance: Gross premium below USD 100 million if it exceeds USD 100 million	 35,000 45,000
Annual fee for a Special Purpose Reinsurance Vehicle	5,000

IV.3.4 Taxation

The corporate tax rate in Singapore is 17 %.[116] However, to incentivize offshore insurance businesses, the government has various schemes which provide concessionary rates. The Offshore Insurance Business (OIB) scheme is the most popular insurance scheme. It provides for a concessionary 10 per cent tax rate for income derived from insurance and reinsurance of offshore risks. The government also has a concessionary tax scheme for specialized lines of business - The Offshore Specialised Insurance Business (OSIB) scheme. It provides for a tax exemption (0 %) for insuring specialized offshore risk such as terrorism and aviation. Marine hull and liability insurance (MHL) business also gets a tax exemption which is in line with the aim of the government

[113] MAS, *Consultation Paper on the Proposed Risk-based Capital Framework for Insurance Business*, URL: https://www.mas.gov.sg/-/media/MAS/resource/publications/consult_papers/2003/RBCCP.pdf
[114] MAS, *Consultation Paper on the Proposed Risk-based Capital Framework for Insurance Business*, URL: https://www.mas.gov.sg/-/media/MAS/resource/publications/consult_papers/2003/RBCCP.pdf
[115] Insurance (General Provisions) Regulations, 2003
[116] Section 43C of the Singapore Income Tax Act, 1947

to make Singapore a shipping hub of the region. To avail these schemes, insurers must apply to the MAS which ascertains their applicability against various qualifying conditions.

IV.3.5 Foreign ownership

Singapore is understood to have no specific restrictions on investments in reinsurance companies by foreign persons.

IV.3.6 Investments

A licensed reinsurer incorporated in Singapore is barred from acquiring, directly or indirectly, a majority stake in any corporation without prior approval of the MAS.[117] Similarly, a licensed reinsurer incorporated outside Singapore is barred from acquiring, directly or indirectly, a majority stake in any corporation from the assets of an insurance fund established under the Insurance Act, 1966, without approval of the MAS.

MAS Notice 125 - "Investments of Insurers" further lays down the requirements and principles that shall govern insurers' investment activities.[118] For an insurer incorporated in Singapore, it also lays down the principles' for investments of its shareholders' funds along with its insurance funds. Except derivatives, there are no specific prohibitions for investing in any asset - insurers must exercise *prudence* while investing according to the guidance of MAS. Investing in derivatives is allowed when it is done for hedging or efficient portfolio management. Insurers also cannot take uncovered positions in derivatives.

IV.3.7 Dispute resolution

There are no special courts for dealing with commercial insurance/reinsurance disputes. Any insurance dispute will be heard in Magistrate's Court, District Court and the High Court. Even though there is no special recourse for insurance disputes, businesses prefer opting for dispute resolution in Singapore as it is an ideal seat for international arbitration where the courts have adopted the principle of minimal interference. Singapore also houses the world's prominent arbitration center - Singapore International Arbitration Centre, which provides state of the art

[117] Section 30B of the Insurance Act 1966
[118] MAS, Notice 125 - "Investments of Insurers", URL: https://www.mas.gov.sg/-/media/MAS/Notices/PDF/MAS-125_Apr-2013.pdf

procedural framework for efficient, expert and enforceable resolution of international disputes between parties from different legal systems.

IV.3.8 Solvency

Solvency of the insurers or reinsurers are supervised through the periodic filing of various forms and returns prescribed by the MAS for different insurance entities.[119] These forms include information such as profit and loss, change in shareholding, fund solvency and capital adequacy requirements.[120] Further, insurers are also required to submit annual reports, independent auditors' and actuary reports.

Further, insurers are required to do their Own Risk and Solvency Assessment (ORSA). It is done annually to assess adequacy of its risk management and solvency position. These reports have to be filed with the MAS. Further, MAS needs to be informed if as per reports, any fund solvency or capital adequacy requirement is not met or will not be met in the future as per the projections.

IV.4 Developmental role of the regulator

The GFCI 30 ranks Singapore as the fourth (4^{th}) best financial centre globally. General factors which make Singapore a financial centre are economic and political stability, the rule of law, robust regulatory supervision, skilled workforce, high-end infrastructure, strong domestic and regional economic growth, and a favourable strategic time zone.[121] Barring the last two, other factors are a result of cautious government planning and regulatory intervention.

Singapore was not a financial centre when it gained independence, but it became one through consistent and systematic efforts of the government. Efforts range from incentivising business through concessional tax schemes such as Financial Sector Incentive Scheme,[122] tax schemes aimed at specific businesses such as offshore reinsurance and capacity building schemes - for

[119] MAS, Notice 133 Valuation and Capital Framework for Insurers, URL: https://www.mas.gov.sg/-/media/MAS-Media-Library/regulation/notices/ID/notice-133/MAS-133_clean_22-Jun-2021.pdf
[120] RBC 2 main workbook, Notice 133 Valuation and Capital Framework for Insurers, URL: https://www.mas.gov.sg/regulation/notices/notice-133
[121] Woo Jun Jie, *Singapore's Transformation into a Global Financial Hub*, Lee Kuan Yew School of Public Policy, NUS, URL: https://lkyspp.nus.edu.sg/docs/default-source/case-studies/entry-1516-singapores_transformation_into_a_global_financial_hub.pdf?sfvrsn=a8c9960b_2
[122] Income Tax (concessionary Rate of Tax for Financial Sector Incentive Companies) Regulations, 2005

example, the Financial Sector Development Fund.[123] Following are a few instances that demonstrate the proactive role played by the regulator:

IV.4.1 Participative governance

Predictability and stability are important considerations for setting up businesses in any jurisdiction. MAS practices participative governance where stakeholders are duly consulted before introducing any regulatory intervention. MAS takes an active effort to create platforms where all stakeholders can offer inputs. It also ensures enough buffer time[124] for effective consultations to happen before introducing new regulations. For example - the Global-Asia Partnership Insurance is a tripartite partnership between the global insurance industry, regulators, and policymakers in collaboration with Nanyang Technological University (NTU) for academic support.[125] It was launched at the 2020 SIRC by the Deputy Prime Minister of Singapore as a forum to address the needs of the insurance industry and facilitate future developments. It comprises:

- A living lab to incubate innovative insurance solutions.
- A think tank for conducting independent research for supporting policy response to emerging risks and issues in the market. It is a first of its kind platform where industry interacts with the regulator and aids it in coming up with neutral, research-based and practical policy responses for emerging issues.
- A talent development unit to build capacity in the workforce.

The MAS has also set up the Alternative Risk Transfer work-group to support the development of Singapore as an ILS hub. Last decade has seen the emergence of the alternative capital in the total available global reinsurance capital - from 6% in 2008 to 14.7 % in 2021.[126] To capture this growing trend, the working group, setup in 2017, comprises the industry experts on ILS and advises MAS on the specific programs that will help the sector grow.[127]

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[123] MAS, *Financial Sector Development Fund - Establishment and Objects of the Fund*, URL: https://www.mas.gov.sg/schemes-and-initiatives/financial-sector-development-fund-fsdf

[124] MAs does not prescribe a fixed time period, but it generally have multiple rounds of consultations

[125] MAS (January, 2021), *Global-Asia Insurance Partnership (GAIP)*, URL: https://www.mas.gov.sg/schemes-and-initiatives/global-asia-insurance-partnership-gaip

[126] Reinsurance News (July, 2021), *Global reinsurance capital unchanged through Q1*, URL: https://www.reinsurancene.ws/global-reinsurance-capital-unchanged-through-q1-aon/

[127] Official Keynote Address by Mr Lim Hng Kiang, Minister for Trade and Industry (Trade), Deputy Chairman, Monetary Authority of Singapore, at the 14th Singapore International Reinsurance Conference (1 November, 2017), "*Metamorphosis: Singapore as a Global Capital for Asian Risk Transfer*", URL: https://www.mas.gov.sg/news/speeches/2017/metamorphosis-singapore-as-a-global-capital-for-asian-risk-transfer

IV.4.2 Incubating and supporting innovative ideas

The regulator is in constant touch with the industry and tries to identify the upcoming trends to help the industry embrace the disruptions - for example, the ILS Grant Scheme. To help the sector grow, through this scheme, MAS is funding 100 % of the upfront costs, up to SGD 2 mn (USD 1.5 mn), incurred in issuing catastrophe bonds out of Singapore.[128] The scheme has attracted significant CAT Bond issuance. Since its launch in 2018, it has facilitated CAT Bond issuance to provide coverage of catastrophes in Japan, Australia, and North America,[129] and is making Singapore a key ILS player in Asia.[130]

IV.4.3 Supporting speciality of the players in the market

Singapore provides various risk management services. However, it has developed its expertise in providing services in specific sectors. For example – 59 % of the net premium received through offshore reinsurance came from property reinsurance.

Table IV.4 - Net premiums of Offshore Insurance Fund business by line (reinsurers) in 2020

(Amount in USD million)

Marine Hull	Aviation Hull	Property	Motor	Engineering	Liability & others	Total
196.8	26.7	3431.6	969.3	428.8	562.1	5819.2
3.4%	0.5%	59.0%	16.7%	8.3%	9.5%	100.0%

Source: Table AG 11 Net Premiums of Offshore Insurance Fund Business by Line, Insurance Statistics 2020, MAS

The regulator realises this advantage and provides support to capitalise on it. For example, the Infrastructure Consortium for One Belt One Road (OBOR) projects – an initiative led by the MAS,[131] is a consortium to provide insurance coverage for the projects under the OBOR to provide for the special political, legal and environmental risk that OBOR traverses through. It brings together all Singapore-based insurers, reinsurers and brokers to provide risk management.

[128] Official Keynote Address by Mr Lim Hng Kiang, Minister for Trade and Industry (Trade), Deputy Chairman, Monetary Authority of Singapore, at the 14th Singapore International Reinsurance Conference (1 November, 2017), "*Metamorphosis: Singapore as a Global Capital for Asian Risk Transfer*", URL: https://www.mas.gov.sg/news/speeches/2017/metamorphosis-singapore-as-a-global-capital-for-asian-risk-transfer

[129] AM Best (August, 2021), *Global Reinsurance Markets*, URL: https://www.anuarioseguros.lat/admin/storage/files/Global_Reinsurance_AM_BEST.pdf

[130] Intertrust Group (September, 2020), *Why Asia is set to be a key player in the ILS market*, URL: https://www.intertrustgroup.com/insights/why-asia-is-set-to-be-a-key-player-in-the-ils-market/

[131] Reinsurance News (November, 2017), *Singapore announces initiatives to further develop its risk transfer market*, URL: https://www.reinsurancene.ws/singapore-announces-initiatives-develop-risk-transfer-market/

CHAPTER V

Reinsurance Framework in Dubai International Financial Centre

Key takeaways

- DIFC was established in 2004 as a financial free zone in the UAE. DIFC is globally ranked eighteenth in the list of financial centres around the world, as per the GFCI 30, 2021.[132]It is exempted from all federal civil and commercial laws within UAE, except the Anti-Money Laundering Law. The DIFC is similar to the SEZ model in India (and by extension, the GIFT City IFSC). Dubai Final Services Authority (DFSA), like IFSCA, can independently frame regulations for financial service providers.
- It primarily targets business opportunities in the MEASA region. The DFSA and the DIFC have proactively entered into other regulators in various jurisdictions to simplify reporting and supervision in relation to its supervised entities.
- The region's huge programme of infrastructure spending on energy, water, transportation and petrochemicals, involving mega projects and risks requiring insurance and reinsurance.
- The continuing role of Dubai as a logistics hub is driving growth in demand for MAT (Marine, Aviation and Transportation) products and trade credit insurance protections, as well as other forms of commercial insurance, arising from the rapid development of trade in the region;
- DIC follows the RBS framework. There are no specific investment limits that apply on the reinsurers.
- DIFC entities have been given a tax holiday providing for a 50 years zero percent tax on income and profits within the DIFC. In the UAE (including the DIFC), there is no personal income tax.
- There are risk-transfer mechanisms through the ISPV structure. DFSA norms dictate the rules that ISPVs must adhere to, with respect to maintenance of capital and the kind of contracts it may enter into. An ISPV can also be a protected cell company.

[132] Financial Centre Futures, ZYen and China Development Institute (September, 2021), *The Global Financial Centres Index 30*, URL: https://www.longfinance.net/media/documents/GFCI_30_Report_2021.09.24_v1.0.pdf

- DIFC has adopted an independent dispute resolution framework. It has a world class two-tiered dispute resolution mechanism - Court of First Instance (CFI) and Court of Appeal. There is no further appeal against the decision given by the Court of Appeal.
- The DIFC Academy is an initiative to proactively offer professional training and higher education courses for professionals, in conjunction with top-ranked institutes. This aims at improving human capital within the DIFC.
- The DIFC considers that a large section of its workforce will be from other cultures, and has made efforts at offering an inclusive living and working environment. Laws and regulations in the mainland, such as prohibition on the consumption of alcohol, will not be applicable within the DIFC.

V.1 Evolution of insurance/reinsurance market

In 1981, the UAE became a member of the Gulf Cooperation Council (GCC) in order to harmonize its legislations and regulations in finance, trade and infrastructure with the objective of boosting inter-regional trade and economic development of the GCC region as a whole. The other members of GCC states include Bahrain, Kuwait, Oman, Qatar and Saudi Arabia. UAE is one of the fastest growing regions among the GCC countries. It has strategically leveraged its geographical position to grow as a hub for trade, logistics, retail, leisure and finance for the Middle East, Africa and South Asia (MEASA) region. In recent times, this has aided the positioning of UAE and the DIFC as a gateway for financial service providers into the MEASA region, with firms electing for DIFC as the hub for regional and branch offices of offshore-headquartered businesses.

Development of the insurance sector in UAE

There is limited data available in the public domain that could define the trend of the development in the (re)insurance sector in the UAE, but literature shows that the beginning of the insurance activities in the UAE was marked by the establishment of the Oriental Insurance Company of India in 1959 and The New India Assurance Company in 1962. This was subsequently followed by various other insurance firms from the Middle East, Europe and domestic firms setting up business in the UAE. In 1993, the Insurance Higher Committee (IHC) was established to govern the general policies and draft regulations concerning insurance activities, pursuant to Federal Law 9 of 1984. For the onshore insurance market of UAE, the IHC was recast as the Insurance Authority (IA) by Federal Law 6 of 2007 with a legal personality and financial and administrative independence. The main objective of this authority is to govern and supervise the UAE's onshore insurance sector ensuring a sound environment for development.[133] In January 2021, the Central Bank of UAE announced operational procedures to take over regulatory and managerial duties of the IA in line with the Decretal Federal Law 25, 2020 which agreed upon the merger of the IA into the Central Bank of UAE[134].

Meanwhile, the rapidly growing regional insurance in the MEASA region and the resulting demand for reinsurance capacity fuelled by the demographic growth, spending on infrastructure facilities, and the growing role of Dubai as the logistical hub, led to the establishment of DIFC as a financial free zone in 2004. This fuelled demand for marine, aviation, transportation products and trade credit insurance protection. The approval of the 'Takaful' system[135] as an alternative form of insurance in 1985 by the Grand Council of Islamic Scholars led to the rapid growth in the demand for takaful insurance. This has led to the DIFC taking a keen interest in promoting and encouraging Islamic finance in the region.

Establishment of the DIFC

The objective of setting up DIFC was to cater to the growing demand for a conducive business environment with transparent regulatory frameworks and processes in the MEASA region. The DIFC primarily targets business opportunities in the MEASA region, including three of the world's fastest growing markets – India, MENA and Sub-Saharan Africa. The report on Global Financial Centres Index 30 places Dubai as the leading financial centre in the Middle East and Africa region.[136] The DIFC reported a 15 %growth in GWP (insurance) in the first half of 2021.[137] The value of GWP in the reinsurance sector was recorded at about USD 2 bn in 2019.[138] The financial free zone has succeeded in attracting major reinsurance companies and is home to about 100 firms in the insurance sector.

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[133] Alshammari, A.A. et al (2018), "*A comparative study of the historical and current development of the GCC insurance and takaful industry*", URL: https://www.emerald.com/insight/content/doi/10.1108/JIMA-05-2016-0041/full/html

[134] CBUAE (January, 2021), CBUAE commences operational procedures to execute Insurance Authority merger, URL: https://ia.gov.ae/en/pages/aboutmerge.aspx

[135] Takaful is a type of Islamic insurance where members pool money to guarantee risks on behalf of each other. Any claims made by the participants to the fund are paid out of the common pool, URL: https://www.investopedia.com/terms/t/takaful.asp#:~:text=Key%20Takeaways-,Takaful%20is%20a%20type%20of%20Islamic%20insurance%20wherein%20members%20contribute,out%20of%20the%20takaful%20fund

[136] Financial Centre Futures, ZYen and China Development Institute (September, 2021), *The Global Financial Centres Index 30*, URL: https://www.longfinance.net/media/documents/GFCI_30_Report_2021.09.24_v1.0.pdf

[137] DIFC (November, 2021), *DIFC Insurance Community Expands with Gen Re Establishing Middle East Presence in the Centre,* URL: https://www.difc.ae/newsroom/news/difc-insurance-community-expands-gen-re-establishing-middle-east-presence-centre/

[138] DIFC (June, 2021), *DIFC position as the region's reinsurance sector hub reconfirmed,* URL: https://www.difc.ae/newsroom/news/difc-position-regions-reinsurance-sector-hub-reconfirmed/

V.2 Legislative and regulatory framework

The Federal Law Number 8, enacted in 2004 enabled the creation of Financial Free Zones (FFZs) across the UAE. It exempted FFZs from all federal civil and commercial laws within UAE, except the Anti-Money Laundering Law. In the same year, Federal Decree Number 35 defined the location and geographical area of the DIFC in Dubai and named the Financial Free Zone as the Dubai International Financial Centre. The Dubai Law No (9) of 2004, granted financial and administrative independence to DIFC. Three component authorities deemed necessary for operations at DIFC were also established, namely – the DIFC Authority (DIFCA), the Dubai Financial Services Authority (DFSA) and the DIFC Judicial Authority (DIFC Courts).

The application of laws within the DIFC, independent from the mainland, recognizes in some ways that an IFSC requires a more business conducive environment by way of greater flexibility and certainty in the regulatory framework. In this particular context, the DIFC bears similarities with the GIFT City, as both are designated Special Economic Zones, with (largely) their own legal frameworks.

The DFSA was established under Article (7) of Dubai Law No (9) of 2004. It is an integrated regulator responsible for developing a regulatory framework for DIFC and for the authorisation, licensing and registration of institutions and individuals who wish to conduct financial and professional services in, or from, the DIFC. The DFSA supervises regulated participants and monitors their compliance with applicable laws, regulations and rules.

The DFSA has also been coordinating closely with its regulatory counterparts in UAE and in other jurisdictions. For example, the DFSA has entered into MOUs with the Federal Financial Services Authority of Germany, the UK FCA and Bank of England etc., so that the regulators may assist each other in the pursuit of common objectives. This assistance may extend to exchange of information and during exercise of investigative and enforcement powers.[139]

[139] DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://dg23rp0isu1uj.cloudfront.net/application/files/2316/1155/4994/DIFC_Insurance_Guide.pdf

DFSA Rulebook
The DFSA has created its own rules, contained in its Rulebook, which apply to entities carrying out financial services in or from the DIFC. The Rulebook is broken down into individual modules. The modules of most relevance to insurance businesses are the General Business Module (GEN) and Conduct of Business Module (COB). Also in terms of prudential requirements, Prudential - Insurance Business Module (PIN), which applies to insurers or reinsurers and Prudential – Investment, Insurance Intermediation and Banking Module (PIB), which applies to insurance intermediaries and insurance managers also apply. In addition, the Islamic Financial Business module of the DFSA Rulebook will apply to Takaful or Re-Takaful operators.[140]

The DFSA's licensing framework adopts an activity-based approach. The firms intending to undertake insurance business must obtain an appropriate DFSA Financial Services Licence, depending on the specific activity they wish to undertake. Once the DFSA Financial Services License is obtained, every product does not require specific approval prior to their introduction into the market. Some insurance-related services in lieu of which the DFSA issues licenses include:

- Financial Service licence of 'Effecting and Carrying Out Contracts of Insurance' for the (re)insurers
- Licence for 'Insurance Intermediation' for the insurance brokers
- Licence for 'Insurance Management' for the underwriting agents and coverholders.

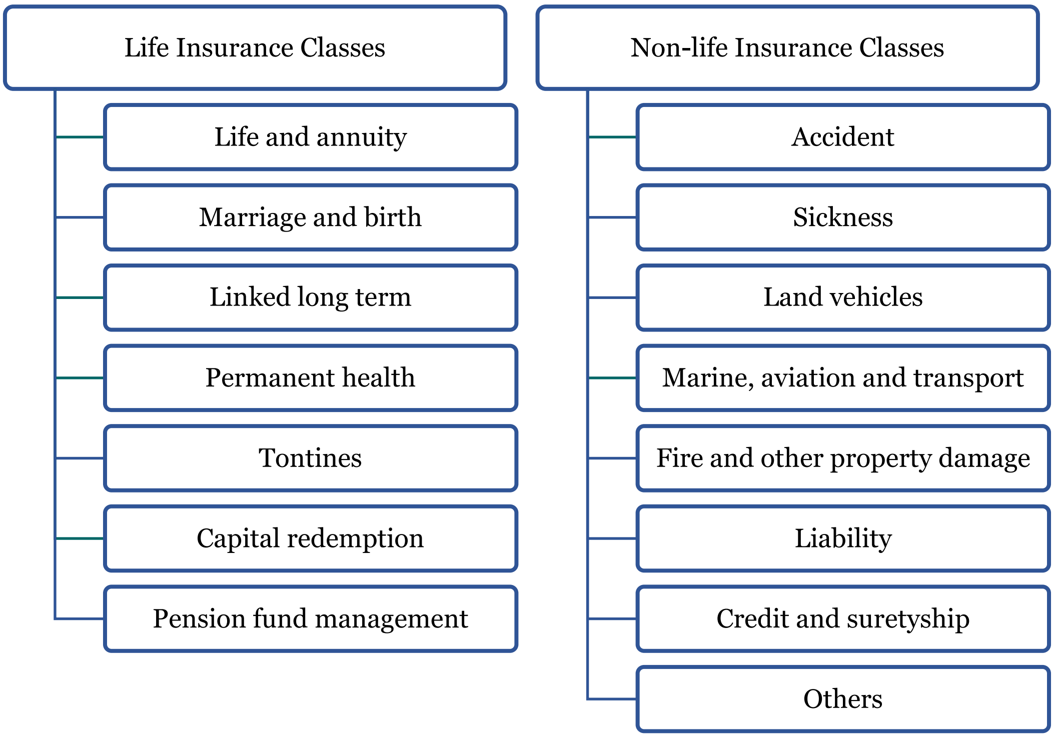
There are nine major operators of the insurance and reinsurance businesses in the DIFC, as listed below:[141]

1. (Re)insurers
2. (Re)insurance captives
3. (Re)takaful operators
4. (Re)insurance brokers
5. Insurance managers
6. Managing general agents
7. Coverholders
8. Third party administrators
9. Representative Offices

[140] DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://dg23rp0isu1uj.cloudfront.net/application/files/2316/1155/4994/DIFC_Insurance_Guide.pdf
[141] See: *Insurance Supervision, Summary, DFSA*, URL: https://www.dfsa.ae/what-we-do/supervision/insurance-supervision/summary

The classes of (re)insurance products are divided into non-life and life (Figure V.1).

Figure V. 1- Classes of (re)insurance products at the DIFC[142]



V.2.1 Authorisation, licensing and registration of a new reinsurance business

The three processes of getting an authorisation, registration and licensing by the DIFC Registrar of Companies (ROC) are intertwined. The table below explains each stage of the application to the DIFC by insurance, reinsurance and captive teams.

Stage 1 Pre-application process	• Applicant to prepare a draft Regulatory Business Plan (RBP) after conducting feasibility study and reach out to the Authorisation Enquiries Team, DFSA • Reach out to the Business Development Team, DIFC Authority in parallel and submit a letter of intent • (Optional) Submit an application to reserve the name of the company to the DIFC ROC
Stage 2 Application to the DFSA for Authorisation and "In Principle" approval	• Apply for the licence to conduct financial services in the DIFC to the Authorisation section, DFSA along with the final RBP underlining the planned financial service for the next 3 years along with the details of system and controls • DFSA appoints a Case Officer to review the process.

[142] See: *Insurance Supervision, Summary, DFSA*, URL: https://www.dfsa.ae/what-we-do/supervision/insurance-supervision/summary

	• DFSA provides "Initial Review Letter" within 10 business days • Application is processed by the DFSA Authorisation Committee on successful submission of all the required details • DFSA Authorisation Committee grants letter of "In Principle" authorisation within 4 months of submission of application, subject to the fulfilment of certain conditions and satisfaction of the DFSA
Stage 3 Registration with the DIFC ROC	• Applicant to submit the letter of "In Principle" authorisation and documents to incorporate a company or a subsidiary of a company or a branch in the DIFC to be submitted to the DIFC ROC for incorporation of the company. • Documents to be submitted include: i Online application form for the incorporation of the company limited by shares (via DIFC ROC online portal) ii Articles of association for the new company as per the standard DIFC form iii a copy of the incorporators' certificate of incorporation or registration iv a resolution of the board of directors of the incorporator approving inter alia, the incorporation of the subsidiary v DIFC ROC forms/agreements relating to various matters including personnel sponsorship, data protection and foreign investment and beneficial ownership vi a copy of the lease for premises in the DIFC • DIFC ROC incorporates the company, registers the branch and issues a Certificate of Incorporation/ Registration, together with a DIFC Commercial Licence for the new entity.
Stage 4 Full Authorisation by the DFSA	• The new DIFC entity after receiving the Commercial Licence from the DIFC ROC has to provide information requested in the "In Principle" letter to proceed to full authorisation. This will include i Confirmation of applicant's address at DIFC ii Confirmation of incorporation of a subsidiary company or registration of a branch office iii Confirmation of meeting DFSA's capital requirements On satisfaction, DFSA issues full licence to the applicant

Source: DIFC Insurance Guide[143]

[143] DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://www.difc.ae/files/1214/5535/3522/DIFC_Insurance_Guide.pdf

V.2.2 Conducting reinsurance business

Reinsurance of UAE risks

Article 4(4) of UAE Federal Law No (8) of 2004 requires that the insurers in the DIFC should limit their business in the UAE to reinsurance only. Therefore, the DFSA authorised insurers, insurance intermediaries and insurance managers can only conduct reinsurance for the risks based in the UAE. In effect:

- DIFC permits reinsurance of UAE cedants up to 100%
- DIFC insurers and intermediaries can effect or carry out, or intermediate on, direct insurance policies for the risks situated within the DIFC district (but not the rest of the UAE)

Reinsurance of direct insurers in jurisdictions outside UAE

In most of the GCC countries - Bahrain, Oman, Kuwait and Qatar, there are currently no specific restrictions on local direct insurers reinsuring 100% of their risks with reinsurers based in the DIFC. This remains subject to the direct insurer complying with the solvency and capital requirements, and other regulations that may apply in these jurisdictions.

Hub and spoke arrangements

In order to benefit from the access to the local marketplace within a particular GCC country, the DIFC-based (re)insurance businesses can establish further operations on a "hub and spoke" basis within the GCC jurisdictions.

Under this arrangement, a DIFC-based company that is licensed as either an "insurer" or "insurance intermediary" or "insurance manager" can be used as a regional hub from which further branches or subsidiaries could be established to allow access to direct markets in the GCC jurisdictions. Although this arrangement is not possible if the DIFC entity is itself a branch office because a "branch of a branch" is not permitted in the GCC jurisdictions.[144]

The arrangement helps reinsurers to have a physical presence in the region to develop local associations and expand marketing and business opportunities.

[144] DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://www.difc.ae/files/1214/5535/3522/DIFC_Insurance_Guide.pdf

V.2.3 Foreign investment

The DIFC entities have no specific restrictions on investments in reinsurance companies by foreign persons. The financial free zone allows for 100 % foreign ownership of entities whether as

- a branch of an already existing licensed and regulated financial institution, or
- a subsidiary of an already existing foreign company/partnership, or
- a start-up company/partnership incorporated within the DIFC.

In comparison, in the rest of the UAE, entities setting up business must have at least 51 %of the company's shares owned by UAE national(s).[145]

V.2.4 Capital requirements

The capital requirements for different entities undertaking various insurance and reinsurance activities vary depending on the nature of the activity.

If an entity is an insurer or reinsurer, then the capital adequacy norms under the PIN Module will apply[146]. If the entity is not an insurer, then the capital adequacy norms under the Module titled PIB Module apply[147]. Within the PIB Module, the activities relating to insurance intermediation and insurance management will qualify an entity as a Category 4 entity. In essence, the scale of regulation within the PIB module depends on the activity undertaken by the entity.

The PIN Module also comprehensively provides guidance on risks arising out of business activities, including in relation to investments (for example, A2.6 under APP2 of the PIN relates to Investment Risk). Similar kinds of investment risks do not arise in the case of insurance intermediaries - hence, the PIB Module largely covers other types of risks that may be more relevant for its business activities.

As per the PIN Module, an insurer's minimum capital requirements must always be equal to or higher than the figures indicated below:

[145] Al-Tamimi (2017), Setting up in Dubai International Financial Centre, URL: https://www.tamimi.com/wp-content/uploads/2018/01/Setting-Up-in-DIFC.pdf
[146] DFSA, *PIN Module*, URL: https://dfsaen.thomsonreuters.com/sites/default/files/net_file_store/DFSA1547_3073_VER180.pdf
[147] DFSA, *PIB Module*, URL: https://dfsaen.thomsonreuters.com/sites/default/files/net_file_store/DFSA1547_17395_VER410.pdf

- Reinsurer - Minimum Capital of USD 10 mn
- Class 1 Captive Reinsurer - Minimum capital USD 150,000
- Class 2 Captive Reinsurer - Minimum capital USD 250,000
- Class 3 Captive Reinsurer - Minimum capital USD 1 mn

V.2.5 Capital repatriation

DIFC-based companies face no restrictions or constraints on capital or profit flows, and there are no currency exchange controls.[148]

V.2.6 Taxation

Under Article (14) of Dubai Law 9, 2004, DIFC entities have been given a tax holiday providing for a 50 years zero percent tax on income and profits within the DIFC. In the UAE (including the DIFC), there is no applicable personal income tax. Outside the DIFC as well, there is no withholding tax or capital or payroll tax.[149]

Article (14) on Tax Relief: *"The Centre's Bodies and Centre Establishments and their employees shall be subject to a zero rate of tax for 50 (fifty) years from the date of enactment of this Law, including the income tax relating to their operations inside the Centre. The zero rate of tax will also extend to transfers of assets or profits or salaries in any kind of currency to any party outside the Centre for 50 (fifty) years from the date of enactment of this Law. It is permitted to renew this period for a similar period upon issuance of a resolution by the Ruler"*[150]

V.2.7 Dispute resolution

The DIFC Judicial Authority has been established under the Judicial Authority Law ("Dubai Law 12 of 2004"). The authority is independent of federal, civil and commercial laws that apply elsewhere in the UAE. There are two levels of courts: the CFI and a Court of Appeal. The official language of the DIFC Courts is English.

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148 DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://dg23rp0isu1uj.cloudfront.net/application/files/2316/1155/4994/DIFC_Insurance_Guide.pdf
149 See: *United Arab Emirates: Individual - Other Taxes*, URL: https://taxsummaries.pwc.com/united-arab-emirates/individual/other-taxes#:~:text=There%20is%20currently%20no%20personal%20income%20tax%20in%20the%20United%20Arab%20Emirates
150 Dubai Law No 9, 2004

The CFI has jurisdiction to hear civil and commercial cases arising in respect of business entities or authorities based within the DIFC, or where contracts have been concluded or executed, wholly or in part, within the DIFC. DIFC entities may, however, elect to submit to an alternative jurisdiction. The CFI also has jurisdiction for judicial review on a point of law from the Financial Markets Tribunal.

The Court of Appeal has jurisdiction to hear appeals from the CFI. There is no further appeal possible from the Court of Appeal, the decision of which is final.

DIFC has also tried to promote DIFC as a viable seat for arbitration of commercial disputes arising out of, or in relation to, contracts being entered into or performed in DIFC. Towards this, MoUs have been entered into with established arbitral centres including the London Court of International Arbitration. These would help investors to benefit from the procedural certainty and infrastructure while participating in arbitral proceedings.

V.2.8 Employment laws

Employment in the DIFC is governed by the provisions of the DIFC Employment Law 4 of 2005, as amended by DIFC Employment Law Amendment Law 3 of 2012 (collectively "DIFC Employment Law"). Under the law, there is no restriction on hiring of foreign employees.[151] The DIFC will provide visa sponsorship to all persons employed by the DIFC registered entities. This is arranged by an employer via the DIFC Authority Government Services Department. The visa is valid for a period of three years from the date of issue.

V.3 Role of the regulator

V.3.1 Creation of human capital - DIFC Academy

The DIFC has made an attempt to cater to the learning needs of the financial services industry by providing a platform for top-ranked educational institutes to deliver professional development and higher education courses. The DIFC Academy has a decade old legacy by partnering with some of the world's most reputable institutions to offer a variety of options ranging from short certificate workshops to multi-year executive MBA degree programmes.

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[151] DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://dg23rpoisu1uj.cloudfront.net/application/files/2316/1155/4994/DIFC_Insurance_Guide.pdf

By building qualified human capital, this centre of learning helps to develop the capabilities that today's financial services workforce requires. The Academy aims to serve as a magnet for talent into DIFC. Existing professionals come to build skills, and fresh graduates participate in internships, mentorships and other work-experience programmes, all organised by the DIFC Academy.[152]

V.3.2 Flexibility

MoUs for enhanced regulatory cooperation and engagement in global financial markets

The DFSA is forging close ties with other regulatory agencies within Dubai and in the UAE, as well as with international regulators and organisations. The DFSA is also actively pursuing alliances, and entering into MOUs with its counterpart regulators such as the Federal Financial Services Authority of Germany, the Guernsey Financial Services Commission and the UK Financial Services Authority (now the UK Financial Conduct Authority and the Bank of England Prudential Regulation Authority). These Memoranda govern the way in which regulators can assist each other in the pursuit of individual and common objectives, including the exchange of information and the exercise of investigative and enforcement powers. The DFSA has signed close to 63 bi-lateral MoUs and four multilateral MoUs across 42 countries.[153]

Lloyd's syndicate

The Society of Lloyd's and the DFSA signed a Framework for Cooperation that ratifies Lloyd's activities in the DIFC marketplace. Pursuant to this, the Lloyd's of London entity situated in the DIFC is not regulated by the DFSA. Instead, the managing agents and coverholders which are on the Lloyd's platform are authorised and regulated by the DFSA. The DFSA and Lloyd's have an agreement in place establishing a framework for the sharing of information between the two organisations to achieve effective supervision of the DFSA Authorised Firms on the Lloyd's platform.

The Lloyd's licence within the DIFC allows Lloyd's underwriters to appoint coverholders in the DIFC to write insurance of DIFC risks and non-UAE risks (subject to any restrictions and in

[152] See: *About Us, DIFC Academy*, URL: https://academy.difc.ae/about-us/
[153] DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://dg23rp0isu1uj.cloudfront.net/application/files/2316/1155/4994/DIFC_Insurance_Guide.pdf

compliance with any requirements governing the insurance of the risk in the jurisdiction in which that risk is situated), and reinsurance of DIFC, UAE and non-UAE risks. Outside of the DIFC, Lloyd's underwriters may not appoint a coverholder domiciled in the UAE for either insurance or reinsurance business[154]. This protects against dual regulation by leveraging the oversight of trusted market place leaders.

Risk-transfer arrangements

There are risk-transfer mechanisms that reinsurers may elect for, through the ISPV structure.[155] DFSA norms dictate the rules that ISPVs must adhere to, with respect to maintenance of capital and the kind of contracts it may enter into. An ISPV can also be a 'protected cell company', whose purpose generally is to ring-fence an entity's assets and liabilities to make it available exclusively to its creditors and shareholders.

The flexibility of the DFSA in providing for the regulation of ISPVs and PCCs positions the DIFC among the most forward-looking financial centres.[156] By setting up specialist cells in the captive/ reinsurance space, it is designed to facilitate access to reinsurance and specialist risk cover with lower establishment and management costs. PCCs lower the access point to captive solutions, allowing smaller firms to avail themselves of the benefits of a Captive Insurer without the need to put up large amounts of money required to capitalise and separately manage a Captive Insurer.[157] A cell of a PCC can be used as a captive insurance company, with the cell shares held by the captive's parent.

Each cell has assets and liabilities attributed to it, which cannot be used to pay the liabilities of any other cell. Company also has core assets, which can be used toward liabilities that cannot be attributed to a single cell. A cell requires minimum assets of USD 50,000 but can also operate as Class 1, 2 and 3 Captives. The core must also have assets of at least USD 50,000.

[154] Lloyd's (2017), *Setting up a Service Company in Dubai (DIFC)*, URL: https://assets.lloyds.com/assets/pdf-new-service-company-applications-setting-up-a-service-company-in-dubai/1/pdf-new-service-company-applications-Setting-Up-a-Service-Company-In-Dubai.pdf
[155] See, *Rule 10, PIN Module*, URL: https://dfsaen.thomsonreuters.com/sites/default/files/net_file_store/DFSA1547_3073_VER180.pdf
[156] DFSA has set out specific regulations for Protected Cell Companies, vide the Protected Cell Company Regulations, 2018.
[157] DIFC et al, *Guide: Insurance, Reinsurance and Captives in the DIFC*, URL: https://dg23rpoisu1uj.cloudfront.net/application/files/2316/1155/4994/DIFC_Insurance_Guide.pdf

CHAPTER VI

Comparative Analysis

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
1.	Number of regulators (regulatory architecture)	Unified - MAS	'Twin peaks' system of regulation Under the Financial Services and Markets Act, 2000, reinsurance companies are regulated by two regulators. • PRA for prudential regulation, and • FCA for conduct supervision of authorised firms.	The DFSA is the integrated regulator responsible for the authorisation, licensing and registration of institutions and individuals who wish to conduct financial and professional services in or from the DIFC.	IFSCA is the unified financial regulator
2.	Minimum capitalisation	SGD 25 mn	• As per Solvency II Directive (2016), there are minimum capital requirements at, both, the solo entity and group level. • Further, capital requirements are at two levels: 1. Minimum Capital level	The DFSA's Rulebook provides for three classes of Captive Insurers and other categories of insurers, with different minimum capital requirements for each class: Class 1 Captive Reinsurer - Minimum capital USD 150,000	For a foreign reinsurance company setting up a branch: Maintain NOF as per section 6(3) of the Insurance Act, 1938 For an Indian insurer/foreign insurer/foreign reinsurer/MGA/Lloyds setting up a branch:

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
			representing the minimum amount of capital that an reinsurer needs to cover risks (which goes beyond just underwriting risks) – set at a confidence level of 85%. 2. SCR which is effectively the amount of capital that an insurer or reinsurer requires to operate as a going concern (assessed on value at risk measure).	Class 2 Captive Reinsurer - Minimum capital USD 250,000 Class 3 Captive Reinsurer - Minimum capital USD 1 mn In case of all other insurers – Minimum capital USD 10 mn	Minimum assigned capital - USD 1.5 mn. For a foreign reinsurer, capital is allowed to be maintained in the home country. A public company, a wholly owned subsidiary of an insurer or a reinsurer, an insurance co-operative society or a body corporate seeking registration: Maintain paid up equity capital as per section 6 of the Insurance Act, 1938
3.	Solvency requirements/Situs	RBC Framework - capital requirements are aligned to an insurer's business and risk profiles as per MAS' Notice 133 on Valuation and Capital Framework for Insurers	Reserves are termed 'technical provisions'. Solvency II requires reinsurers to: • establish technical provisions concerning all their reinsurance	Activity-based requirements under the PIB Module or the PIN Module of the DFSA Handbook. The activity determines the quantum of risk and consequently, the solvency requirements.	Solvency margins requirements vary depending on the nature of presence in the IFSC. For place of business of Indian insurer or branch office' of the foreign

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
			obligations towards policyholders, and • it must also include a 'risk margin' to cover the cost of the capital prescribed. Solvency capital is to be maintained at a confidence level of 99.5%.		insurer/foreign/reinsurance/MGA/Lloyd's: Solvency margin is as per regulator in the home country. Such a solvency margin can be maintained in the home country. A public company, a wholly owned subsidiary of an insurer or a reinsurer, an insurance co-operative society or a body corporate: As specified by the IFSCA
4.	Process to obtain registration	Reinsurer has to apply to the MAS with a form comprising basic information and documents detailing: -Overview of global operations of the applicant -Overview of the proposed Singapore operations Detailed information on the proposed Singapore operation	Authorisation is a structured process: 1. Pre-application (non-mandatory) - meet with the PRA and FCA to understand the process, regulatory expectations, concerns etc. There is an Initial meeting, Feedback meeting, Challenge session just before application is made.	Authorisation is a structured process: 1. Pre-application Applicant - prepare a draft RBP after conducting feasibility study and reach out to the Authorisation Enquiries Team, DFSA 2. Application to the DFSA for Authorisation and "In Principle" approval - apply for the licence to conduct financial services in the DIFC to	Before applying to the IFSCA for registration, an applicant has to obtain approval from the Development Commissioner, GIFT SEZ for setting up a unit. Further, if the applicant is an Indian insurer/reinsurer registered with IRDAI, it has to obtain NOC from the IRDAI for setting up a branch in the IFSC. In case of a foreign reinsurer, NOC

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
			2. Formal application (mandatory) - online form to be filed with application fees. Both regulators will make independent decisions on financial and non-financial soundness.	the Authorisation section, DFSA along with the final RBP underlining the planned financial service for the next 3 years along with the details of system and controls. DFSA Authorisation Committee grants letter of "In Principle" authorisation within 4 months of submission of application, subject to the fulfilment of certain conditions and satisfaction of the DFSA 3. Registration with the DIFC ROC - DIFC ROC incorporates the company, registers the branch and issues a Certificate of Incorporation/ Registration, together with a DIFC Commercial Licence for the new entity on submission of all the required documents. 4. On satisfaction, DFSA issues full licence to the applicant	is required from the home country regulator. An Indian insurer/reinsurer has to obtain prior approval from the IRDAI for setting up its subsidiary in the IFSC. Both the Development Commissioner approval and NOC from the IRDAI/home country are necessary at the time of filing an application for registration with the IFSCA.

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
5.	Time to obtain registration	6 to 8 weeks	As set out in the FSM Act, the statutory deadline to make a decision on complete applications is 6 months, and on incomplete applications it is 12 months.	Within 6 months	Regulations do not prescribe a timeline on grant of registration or rejection. Applicants are entitled to 30 days for rectification of deficiencies.
6.	Types of business allowed	Reinsurers are licensed to write life reinsurance business and/or general reinsurance business in Singapore. They are not permitted to write direct business and are only allowed to assume all or a part of the insurance or reinsurance risk written by another insurer.	18 classes of general insurance and 9 classes of long-term life insurance as specified in the FSM Act (Regulated Activities) Order 2001.	(Re)insurers authorised by the DFSA will need to be authorised under their financial services licence for each type of insurance class they intended to transact in and from the DIFC. These classes of (re)insurance products are divided into 8 classes of non-life and 7 classes of life.	Life insurance, health insurance, general insurance and reinsurance, subject to conditions specified by IFSCA.
7.	Trade barriers	None	None	The UAE Federal Law No. 8 of 2004 requires insurers in the DIFC to conduct reinsurance only for risks situated in the UAE.	An IFSC unit may accept reinsurance business from the insurers in DTA in accordance with the order of preference for cession specified in the IRDAI (Reinsurance) Regulations, 2018.
8.	Investment norms	Offshore insurance businesses cannot acquire a majority stake with the insurance fund without MAS's approval. Further, there are no restrictions on investments in any kind of	Solvency II directives follow the 'prudent investor regime': • businesses can invest in assets that match their liabilities in terms of	No specific investment limits apply. Insurers are required to, *inter alia*: • have suitable controls and management information systems	The IFSCA regulations do not clearly specify whether it follows prudential investment framework. However, it allows foreign reinsurer, who has set up a branch in the IFSC, to invest

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
		asset except derivatives. MAS Notice 125 allows investments in derivatives only if it is done for hedging or efficient portfolio management. Insurers also cannot take uncovered positions in derivatives.	liquidity and duration of holding, and • invest in assets that they perceive to be of sufficient quality.	in place to enable an insurer to implement an appropriate investment strategy; • have procedures in place to enable an Insurer to monitor the interaction of its assets and liabilities so as to ensure that exposure to equity, interest rate and foreign exchange risk is contained within limits approved by the insurer; • have procedures in place for setting prudent limits for the insurer's aggregate exposure to certain categories of asset.	the assets backing solvency as per requirements of the home country regulator.
9.	Repatriation of capital/exchange control	None	None	None	None Foreign insurers operating through branches in the

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
					IFSC can maintain capital in their home country.
10.	Taxation benefits	Concessionary rate of 10% for offshore reinsurance business. OSIB scheme for a tax exemption (0%) for insuring specialized offshore risk such as terrorism and aviation	Reinsurer companies are subject to the normal rules governing the taxation of companies in the United Kingdom i.e., corporation tax.	50 years tax holiday on profits and income of all DIFC establishments	Income tax holiday for 10 years. No GST on services received by units in IFSC and provided to IFSC/ SEZ units or offshore clients. Several other tax benefits.
11.	Risk transfer tools	Insurance linked securities regime is provided for in the SPRV Regulations.	Insurance linked securities regime including CAT Bonds and CRe.	Certain conditions apply in respect of risk transfer to ISPVs. The DFSA must grant a waiver, failing which insurers may not treat amounts recoverable from ISPVs as an asset or reinsurance. Specific regulations apply in respect of the ISPVs under the DFSA Handbook.	Regulations do not explicitly prohibit alternative risk transfer tools.
12.	Dispute resolution	There are no special courts for dealing with commercial insurance/reinsurance disputes. Matters are heard in Magistrate's Court, for claims not exceeding SGD 60, 000.	• The Commercial Court, a specialist court which is part of the Business and Property Court of the High Court of Justice, has expertise in handling domestic	• DIFC Courts have been established as a statutory body with the main function of administering and enforcing the civil and commercial laws of the DIFC.	Courts in Gujarat will have the jurisdiction. Recently, SIAC Singapore has opened its office in the IFSC. Gujarat Maritime University signed a MoU with IFSCA on June 21 to promote the GIMAC. This will be India's first arbitration centre to

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
		District Court, for claims exceeding SGD 60, 000 but under SGD 250,000. For a higher amount of claim, matter goes to the High Court. Singapore is also an ideal seat for international arbitration where the courts have adopted the principle of minimal interference.	and international business disputes. • London offers a world class pool of arbitrators (especially in the reinsurance sector). • Jurisdiction also has a highly developed body of case law in the insurance and reinsurance sector – perception that judicial decision is predictable is high.	• There are two levels of courts: the CFI Instance and a Court of Appeal. • The official language of the DIFC Courts is English.	address disputes related to maritime and shipping sector.
13.	Talent creation	MAS actively collaborates with academic and research institutes for developing initiative to support capacity building. Some initiatives are: • Finance Associate Management Scheme • Financial Sector Technology and Innovation Scheme • Financial Specialist Scholarship • Artificial Intelligence and Data Analytics Grant	• 20 of the world's leading reinsurance firms are represented in London. • London's share of the global commercial reinsurance market has remained steady overall at 7.6% since 2010. • Highly concentrated market of brokers, other intermediaries, lawyers, dispute resolution specialists,	DIFC has established the DIFC Academy with an attempt to cater to the learning needs of the financial services industry by providing a platform for top-ranked educational institutes to deliver professional development and higher education courses.	In 2017, GIFT IFSC signed a MoU with the Gujarat National Law University to collaborate on efforts for skill development in the field of international financial services. In 2021, IFSCA signed a MoU with BRTSIF, a joint venture between BSE Institute Mumbai and Ryerson University and Simon Fraser University, Canada to accelerate fintech innovation in the IFSC.

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
			managing agents etc.		IFSCA has signed a MoU with the Insuretech Association of India (IAI) to promote fintech in the insurance sector. IFSCA has issued a framework for fintech regulatory sandbox and GICs.
14.	Market for intermediaries	Singapore has a vibrant insurance ecosystem that has 99 licensed insurance broking firms operating in Singapore.	Advisory services have been a primary driver of growth in managed businesses. London provides critical input to modelling, not in handling the transaction or settling claims. Businesses not placed in London look to brokers in London for intellectual input. There is understood to be a huge market driven by the U.S. retail brokers who take advice (through Service Level Agreements) from London wholesale brokers.	All the intermediaries involved in selling and underwriting a reinsurance contract require a "Category 4" licence from DFSA in the Prudential – Insurance Business module of the DFSA Rulebook. The DIFC is home to more than 100 firms in the insurance/ reinsurance sector.	The intermediary market is still developing. In October, 2021, regulations for registration of intermediaries were issued which lays down the net-worth/minimum capital requirements and a detailed code of conduct for the intermediaries. Further, if an intermediary or insurance intermediary registered with the IRDAI is desirous of setting up a branch office in the IFSC, it has to first obtain NOC from the IRDAI. Currently there are 8 insurance brokers, 4 composite brokers, and 2 reinsurance brokers in the IFSC.
15.	Cap on remuneration of intermediaries	None	None	None	An intermediary (including a reinsurance broker) can earn a maximum 50% of its

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
					income from any one client in a financial year. Definition of 'client' includes in the case of a firm or a company, an associate or a subsidiary or a group concern under the same management.
16.	Jurisdictions from which maximum business comes	China – 54.8 % of the offshore reinsurance premium (2020)	North America (USA and Canada), UK and Ireland	Focused on MEASA region.	No data is available.
17.	Speciality lines	Property	Aviation, energy and marine lines	The region has potential for the development of Islamic finance as a possible avenue apart from other areas	No data is available.
18.	Presence of SROs	• Life Insurance Association • General Insurance Association • Singapore Reinsurer's Association • Singapore Insurance Brokers Association • Reinsurance Brokers Association of Singapore	• London Market Group has representation from the overall market including Llyod's. • The British Insurance Brokers' Association (BIBA)	DFSA implicitly recognizes the role of SROs for the purpose of avoiding dual regulation under certain circumstances. However, no specific SROs appear to be operational in the insurance/ (re)insurance sector.	No information is available. .
19.	Retrocession limit	None	None The indemnification of the reinsurer by the retrocessionaire is as	None	Reinsurer can retrocede maximum 50% of its reinsurance business.

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
			specified in private contracts between them.		
20.	Changes in shareholding	Approval of MAS is required for change in substantial shareholding of insurers incorporated in Singapore.	To acquire or increase 'control' in a UK regulated business, the PRA's approval is necessary (criminal offence to do so without approval). 'Control' is defined as the acquisition of 10% or more of the shares or voting power of the regulated entity or its parent entity with an overarching concept of 'the ability to exercise significant influence over the management of the regulated entity because of a shareholding or voting power in the regulated entity or its parent.' Prior regulatory approval is also required where an existing controller proposes to increase shareholding or entitlement to exercise voting power in the insurer or reinsurer or its parent above 20, 30 or 50%.	DFSA Market Rules require disclosures in case of changes in shareholding of listed entities beyond certain thresholds. Concentration of shareholding beyond certain levels impose further obligations of disclosures on such investors.	Prior approval of the IFSCA is required if there is a change in shareholding of a public company by more than 5% of its paid up equity capital.
21.	DTAA and FATF requirement	None	None	None	An applicant and its promoters, partners or controlling shareholders

S. No	Point of comparison	Singapore	London	DIFC	GIFT-IFSC
					must be from a country which is Financial Action Task Force compliant. Further, the applicant is registered or certified in a jurisdiction with whom the Government of India has signed a Double Taxation Avoidance Agreement.

CHAPTER VII

Recommendations

For GIFT City IFSC to take giant strides, we need a framework that governs financial services and entities comprising the reinsurance ecosystem, which is not only incrementally better than the DTA's, but better than the prevailing international standards. This is the rationale behind creating a financial SEZ, which could be insulated from the limitations of the DTA, so it can attract businesses from all over the globe. With this clarity in approach, IFSC needs to establish itself as both a regional and a global reinsurance hub. In the year 2020, the global reinsurance market in terms of net written premium was USD 137.159 bn, whereas the forecast for 2022 is USD 173.525 bn.[158] Further, the revenue forecast of the reinsurance market in 2026 is USD 354.540 bn.[159]

Given the expanding share of the global reinsurance market, the time is ripe for IFSC to enter the offshore market. GIFT City IFSC must target to incrementally, but consistently, gain a certain share in this global market over a fixed time period. The growth must be reviewed periodically, so that further measures may be taken to ensure this outcome.

The new IFSCA regulations on registration of insurance businesses and registration of insurance intermediaries are expected to help IFSC to move towards this objective. As discussed in Chapter II, the new regulations have better flexibility compared to the earlier IRDAI Guidelines applicable to the IFSC. The new framework allows both foreign and domestic insurers and reinsurers to start operations either by setting up branches or incorporated entities (only branch route was allowed under the IRDAI Guidelines). The major change brought in by the new regulations is — it allows a foreign reinsurer branch to operate in the IFSC under the guarantee of its parent company (and by maintaining assigned capital in the home country, following the solvency margin of the home country regulator, etc).

However, IFSC Gift City aspires to compete in the global market with other financial centres. Therefore, it must leverage its position over the other centres by using the best international practices as a benchmark, and offer a better deal to global reinsurance businesses. While the new regulations have made a head start in this direction, on parameters like supervision framework, investment norms and alternative risk transfer, there is more scope to align with the international

[158] Fitch Rating (September, 2021), *Fitch Ratings 2022 Outlook: Global Reinsurance*, URL:https://www.fitchratings.com/research/insurance/global-reinsurance-sector-outlook-improving-for-2022
[159] Valuates Reports (May, 2019), *Global Reinsurance Market Size, Status and Forecast 2021-2027*, URL: https://reports.valuates.com/reports/QYRE-Auto-6171/global-reinsurance

norms. Some of the limitations under the Insurance Act, as applicable to the DTA, continue to apply to the IFSC. For instance, restrictions on investment of funds outside India, investment in private companies or prior approval for transfer of shareholding beyond a prescribed threshold.[160] Also, reinsurers in the IFSC are required to follow the 'Order of Preference' for solicitation of business from the DTA.[161] Further, Indian insurers/reinsurers planning to set up operations in the IFSC must obtain NOC from the IRDAI and adhere to the IRDAI regulations.[162] Our study of three other IFSCs and consultations with stakeholders suggest that these limitations/conditions may not be at par with the international practices and hence, these issues need to be addressed. GIFT City IFSC would also need special treatment under other laws and regulations which can cause impediments in creation of cluster effects.

Recently, the government has carried out a major reform by allowing up to 74 % FDI in the insurance sector, which is expected not only to enhance the local presence of foreign players, but also lead to downstream benefits such as enhancement of insurance penetration and social protection. Given the consistent progressive approach of the government, and its seamless collaboration with IFSCA, India holds a promising future as a financial and reinsurance hub.[163]

In this chapter, we discuss recommendations which may aid IFSCA in devising a pragmatic strategy to develop the GIFT City IFSC as a global reinsurance hub. While the bulk of our recommendations are focused on the reinsurance market (specific recommendations), we have taken the liberty to highlight some crucial elements (general recommendations) - like dispute resolution, capacity building of IFSCA and need for GIFT City IFSC to be developed as a global city, which are likely to support the growth of the financial services sector in the GIFT City IFSC, including reinsurance.

[160] Section 27E and 6A(4)(b) of the Insurance Act, 1938
[161] This recommendation was also made in the Report by the *IFSCA Expert Committee on IFSC International Retail Business Development* (October, 2020), URL: https://ifsca.gov.in/Document/ReportandPublication/irb-final-report-29-1021062021030248.pdf
[162] Section 64VC of the Insurance Act, 1938
[163] Section 2CA of the Insurance Act, 1938. This amendment was made to the Insurance Act, when the Special Economic Zones Act, 2015 was legislated. Under this section, the government has the power to exempt a unit operating in the IFSC (SEZ) from any of the provisions of the Insurance Act, 1938.

Specific recommendations

VII.1 Risk based supervision framework

Foreign reinsurers operating through a branch structure in the IFSC have the liberty to adhere to the solvency margins of their home country.[164] They are also required to maintain assigned capital (USD 1.5 mn), in addition to the maintenance of net owned funds at INR 1,000 Cr (USD 133.85 mn).[165] Entities incorporated in the IFSC are required to comply with the paid-up capital requirements under the Insurance Act, 1938.[166] However, it is unclear which solvency margin requirements incorporated entities must follow. Moreover, the regulations do not clearly spell out a supervision framework for insurance and reinsurance business in the IFSC.

Our comparative study of the three financial centres informs us that these hubs uniformly follow the RBS framework for the entities operating from those jurisdictions. Under a rule-based capital and solvency requirements framework, regulators follow a 'one size fits all' approach and fail to adequately capture several forms of risk. But under RBS, each regulated entity will be assessed based on its 'risk profile'. Further, our consultations with stakeholders suggest that if the RBS system is adopted, then additional capital that at present remains locked need not remain idle. It can improve the competitiveness of a business entity in the IFSC. Therefore, it is recommended that IFSCA adopt a comprehensive RBS framework for all forms of entities willing to engage in insurance/reinsurance business in the IFSC.

In the Indian insurance ecosystem, the discussion around the adoption of an RBS framework is not new. In 2018, the IRDAI had announced that it would gradually shift towards the RBS framework for holistic supervision of the insurance sector.[167] Further, it observed that a formulaic approach towards solvency of all insurers irrespective of its size, is inappropriate. We also note that the *Committee of Experts on Insurance* recommended the adoption of an RBS framework.[168] Given these developments, IFSCA may also consider adopting the RBS framework for all entities operating from the IFSC. Initially, there may be capacity and resource constraints in implementing the RBS framework. But experience from other countries suggest that regulators can develop and apply an RBS framework that is proportionate and accounts for existing constraints. For instance,

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[164] Regulation 17(4) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

[165] Regulation 17(1) and (2) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

[166] Regulation 17(3) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021

[167] IRDAI (4 October, 2018), *Moving towards 'Risk Based Supervision' of the Insurance Sector, IRDA/INSP/CIR/RBSF/166/10/2018*, URL: https://www.irdai.gov.in/admincms/cms/LayoutPages_Print.aspx?page=PageNo3610

[168] IFSCA (November 15, 2021), *Report of the Committee of Experts on Insurance*, URL: https://ifsca.gov.in/Viewer/ReportandPublication/18

the Albanian Financial Services Authority in collaboration with the World Bank developed an RBS methodology in 2010.[169] Similarly, IFSCA as a member of the IAIS, may collaborate with other members/regulators who follow the RBS regime, in designing a framework suitable in the context of GIFT IFSC.

VII.2 Prudence based investment framework

Our study of international jurisdictions shows that the established financial centres provide a prudence-based investment framework. Under the new IFSCA regulations foreign branches have the flexibility to invest assigned capital and assets backing solvency margin as per the requirements of their home country regulators.[170] But the regulations do not clearly lay down an investment framework.

The investment choices for Indian insurers and reinsurers are therefore regulated under the Insurance Act, 1938 and the IRDAI Investment Regulations, 2016.[171] These investment choices are restricted, for example - Section 27E of the Insurance Act restricts reinsurers from investing the funds of policyholders directly or indirectly outside India. Further, a reinsurer cannot invest in shares or debentures of a private limited company.[172] While IFSCA should consider adopting a prudence-based investment framework for all entities operating in the IFSC, this will first require amendments to the Insurance Act, 1938. The government has powers to issue a notification to exempt a unit operating in the IFSC from any of the provisions of the Insurance Act, 1938.[173] Similarly, under the IFSCA Act, 2019 the government has the power to exempt financial products, financial services and financial institutions in the GIFT City IFSC from the provisions of other central legislations.[174]

The rationale behind creating prudence based investment framework is to allow scope to the entities to demonstrate their ability to understand and manage reinsurance risks. For instance, Solvency II Directives in the U.K. follow the prudential investor regime, which essentially requires insurers to invest in assets that match their liabilities in terms of liquidity and duration of holding. Additionally, they have the liberty to invest in assets that they perceive to be of sufficient quality. Put differently, international centres must allow insurance/reinsurance entities an array of

[169]A2ii – IAIS Consultation Call (July, 2015), *Risk-based Supervision in Inclusive Insurance,* URL: https://a2ii.org/sites/default/files/2019-07/risk-based_supervision_in_inclusive_insurance_report.pdf
[170] Regulation 17(2)(b) and 17(4)(b) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
[171] Pursuant to Section 13(1) and 34 of the IFSCA Act, 2019, investment norms prescribed under the IRDAI Investment Regulations, 2016 may continue to apply to reinsurance units in the IFSC.
[172] Section 27A(4) of the Insurance Act, 1938,
[173] Section 2CA of the Insurance Act, 1938. This amendment was made to the Insurance Act, when the Special Economic Zones Act, 2015 was legislated.
[174] Section 31 of the International Financial Services Centres Authority Act, 2019

investment choices at home and overseas, without prescribing a restrictive limit-based investment framework.

On this subject, guidance can be also drawn from the recommendations of various expert committees constituted by the IFSCA[175] to promote financial services in the IFSC. They have consistently highlighted the need for prudence-based investment framework in the GIFT City IFSC. For instance, the *Expert Committee on positioning IFSC as a global hub for Ship - Acquisition, Financing & Leasing* recommended allowing insurance companies in the IFSC to invest in entities engaged in vessel financing/leasing in an IFSC. Allowing a flexible investment framework is necessary to promote the marine sector in the IFSC, which can have a ripple effect on building specialization in marine reinsurance capacity. Similar lessons may apply in the context of other sectors as well.

VII.3 Alternative risk transfer framework

Reinsurers while underwriting deals involving huge exposures find it difficult to source the capital from the traditional insurance market. Hence, players look for alternative avenues like use of ILS to transfer the risk and source the capital from the capital markets. One example is through CAT Bonds. Over the past two decades, CAT Bonds have emerged as a popular option for insurers and reinsurers to protect themselves against natural disasters.

Many jurisdictions have facilitated the development of CAT Bonds by providing a conducive regulatory framework. For example, Singapore provides for the establishment of SPRVs - a bankruptcy-remote vehicle used to issue CAT Bonds. MAS also operates an ILS scheme or ILS grant scheme which has catalysed the development of the ILS market in Singapore and made Singapore an Asian leader in issuing CAT Bonds. Under the scheme, MAS is funding 100 % of the upfront costs, up to SGD 2 million (USD1.5 million), incurred in issuing CAT Bonds out of Singapore. Since its launch in 2018, it has facilitated CAT Bond issuance to provide coverage of catastrophes in Japan, Australia, and North America.[176] The UK government also has committed itself to a framework in order to compete in the growing market for ILS. The extant legislative framework governing ILS lays out a corporate, regulatory and tax regime for UK domiciled ISPVs, which sponsors can use in ILS transactions.

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[175] IFSCA (May 2021), *Report of the Expert Committee on feasibility of the Variable Capital Company in International Financial Services Centres*, URL: https://ifsca.gov.in/Viewer/ReportandPublication/11
IFSCA (October 2021), *Report of the Committee on Development of Avenues for Ship Acquisition, Financing and Leasing from IFSC in India*, URL: https://ifsca.gov.in/Viewer/ReportandPublication/17
[176] AM Best, *Global Reinsurance Markets*, URL: https://www.anuarioseguros.lat/admin/storage/files/Global_Reinsurance_AM_BEST.pdf

In the DTA, an insurer may enter into alternative risk transfer arrangements only after obtaining prior approval from the IRDAI.[177] This also means a branch of IRDAI registered insurer/reinsurer operating in the IFSC would be subject to such approval. While in the IFSC, there is no prohibition on IIOs to adopt alternative risk transfer strategies, compared to other financial centres which formed part of our study, there is no guideline/framework on alternative risk transfer. At present, the investments made by pension and insurance funds are governed by conservative investment guidelines issued by their respective regulators. To ease the financing of instruments like CAT Bonds by such institutional investors, concomitant changes to their quantitative investment limits may also be necessary.

VII.4 Developing specialization

Experience of other jurisdictions show that either organically or semi-organically, the established financial centres have developed specialisation in particular segments of the reinsurance market. For instance, the aviation and marine specialty lines enabled most of the growth in the London reinsurance market, whereas property contributed to almost 60 % of the total offshore reinsurance business in Singapore. Certain IFSCs like London have also developed thought leadership in specific areas of transactional support like modelling. There is understood to be a huge market driven by US retail brokers who take advice (through Service Level Agreements) from London wholesale brokers.

For identifying the speciality which could be developed in the IFSC GIFT City, IFSCA may develop a strategy to tap into both the captive and offshore market. In the year 2019-20, total reinsurance premium placed outside India was USD 1878.6 mn (See, Table VII.1). Main segments which contributed to this amount were fire, marine and engineering.

[177] Regulation 8 of the IRDAI (Reinsurance) Regulations, 2018

Table VII. 1- Reinsurance premium placed outside India

(Amount in million USD)

Segment	2015-16	2016-17	2017-18	2018-19	2019-20
Fire	284.0	341.9	310.6	327.7	500.5
Marine	95.1	138.3	64.9	87.2	110.5
Motor	14.3	100.9	44.0	92.8	29.1
Aviation	18.6	23.0	15.1	45.1	34.8
Engineering	75.7	82.9	67.0	73.7	78.4
Others	417.0	989.8	709.6	1098.8	1125.4
Total	904.7	1676.9	1211.1	1725.4	1878.6

Source: Annual Reports of IRDAI

In the marine segment, about 47 % of the total reinsurance premium was placed outside India in 2019-20. The *Committee on Development of Avenues for Ship Acquisition, Financing and Leasing from IFSC in India* recommended that IFSC has[178] the potential to be a regional hub for marine insurance, which in turn can have a positive ripple effect on the growth of the reinsurance market.[179] While creation of India's first international maritime cluster in the GIFT City is a promising step towards this objective, IFSCA would have to constantly provide the ecosystem which is at par with international business and regulatory practices to gain the competitive edge in this segment.[180]

In the aviation segment, 41 % of the reinsurance premium was placed outside India in 2019-20. Further, the *Working Group on Developing Avenues for Aircraft Financing and Leasing Activities in India*, constituted by the Ministry of Civil Aviation had identified GIFT City IFSC as the location to capture the aviation leasing business going outside India. Pursuant to this objective and to give fillip to aircraft leasing in the IFSC, government has notified aircraft leasing, including operating and financial leases as a 'financial product' under the IFSCA[181]. So far six aircraft leasing firms including one headquartered at Ireland — one of the global leaders for aircraft leasing, have been given licenses. If IFSCA aims at making GIFT City IFSC an aircraft leasing hub, then it should also develop aviation leasing reinsurance capacity. Doing so will create an ecosystem which will allow different components of the ecosystem to grow by feeding off each other. For instance, IFSC will require an ecosystem of underwriters, loss assessors, claim adjusters and lawyers, who have expertise in the aviation segment.

[178] MAS (5 July, 2016), *Consultations Paper on Review of Risk based Capital Framework for Insurers in Singapore ('RBC 2 Review) - Third Consultation*, URL:https://www.mas.gov.sg/publications/consultations/2016/rbc-2-review---third-consultation

[179] IFSCA (October, 2021), *Report of the Committee on Development of Avenues for Ship Acquisition, Financing and Leasing from IFSC in India*, URL: https://ifsca.gov.in/Viewer/ReportandPublication/17

[180] Table VII.1 shows the 'others 'segment contributes to 51% of the total premium amount placed outside India. Since the IRDAI report does not provide any information on the break up of this segment or any noticeable trend, this may be further studied to identify a potential area for developing speciality. Also, the jurisdictions where the premium is flowing out has not been disclosed in the IRDAI report. Understanding these details may be relevant to develop a future strategy for the IFSC.

[181] Department of Economic Affairs, Notification, S.O. 3652 (E) 16 October, 2020, URL: https://ifsca.gov.in/Viewer/Index/98

With the changing times, the nature of risks are also changing. Risks arising out of climate change, terrorism, natural calamities etc. are likely to increasingly influence the direction of the insurance and reinsurance market. As a regulator, while it is the statutory mandate of the IFSCA to develop the market, the development of a line of speciality or approach towards the target market (DTA or offshore) is more likely to be dictated by market forces. In collaboration with the government, IFSCA's primary role must be to support the evolving trends in the market, especially by ensuring that growth is not stunted because of any limitations in the legislative and regulatory frameworks.

Although IFSC is in a nascent stage, all kinds of insurance/reinsurance data (like types of insurance/reinsurance activities, markets contributing to insurance/reinsurance business, segments of insurance/reinsurance business, etc.) must be periodically captured and published. This can help in identification of trends to develop specialisation.

VII.5 Business with DTA

One of the prime objectives of IFSCA is to develop GIFT City IFSC as an offshore reinsurance hub. However, India offers a huge captive insurance market unlike UAE or Singapore, which could be a potential source of reinsurance business for the IIOs. If IIOs intend to do business in the DTA, they will be subjected to the Order of Preference - IIOs are third in the hierarchy after the FRBs registered with IRDAI.[182] *The Expert Committee Report on IFSC International Retail Business Development* had also highlighted the disadvantage IIOs face while transacting with DTA by being lower than the FRBs in the Order of Preference.[183] This form of limitation is not found in the hubs which formed part of our study.[184] IFSCA in collaboration with the government should aim to provide a conducive business environment not only for the offshore business, but also for doing business with the DTA. Further, to avoid jurisdictional overlap when IIOs conduct business with the DTA, adequate inter-regulatory coordination is imperative.

VII.6 Ease of doing business

To create a competitive and specialised market, ease of doing business is crucial. This is buttressed by several factors such as a predictable, friendly and participative regulatory architecture.

[182] Regulation 28(9) of the Insurance Regulatory and Development Authority of India (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015
[183] IFSCA (October, 2020), *Expert Committee Report on IFSC International Retail Business Development*, URL: https://ifsca.gov.in/Viewer/ReportandPublication/12
[184] In DIFC, the reinsurance players are barred from doing direct insurance business in the mainland UAE but they can do reinsurance business without any barriers. See, Article 4(4) of UAE Federal Law No (8) of 2004.

Naturally, these are key attributes of such markets in established financial centres. At present, an applicant for insurance/reinsurance business has to obtain approval from the SEZ Development Commissioner. An applicant registered with the IRDAI requires an NOC from it. Only once these approvals are in place, an application can be made to the IFSCA for obtaining the registration. Instead of an applicant coordinating with three different authorities, it would be easier for them if IFSCA were to become a single window for facilitating the entire process.

There are no prescribed timelines governing the registration process. In the countries which formed part of our study, a definite timeline for obtaining approval to commence reinsurance business was in place. In the U.K, a decision on complete applications is made within 6 months. In case of incomplete applications, the maximum timeline is 12 months. These timelines are statutorily mandated. Similarly, DIFC provides authorisation to start a reinsurance business within 6 months of submission of a complete application. While the IFSCA regulations have been recently issued, with more experience, a reasonable time period may be eventually prescribed for the registration process.

Further, conditions like putting a cap on retrocession may not align with the international practices. At present, an IIO permitted to transact reinsurance business can retrocede up to fifty (50) % of its reinsurance business. Under the earlier IRDAI Guidelines, 2017, an IIO was allowed to retrocede up to 90 % of its reinsurance business.[185] The *Expert Committee Report on IFSC International Retail Business Development* had observed that requiring companies to retain large amounts can make them non-competitive in the international market and therefore, companies are keen to cede higher than the prescribed threshold. Similarly, our study of the selected jurisdictions show that they have adopted the 'cedant responsibility model', which does not impose any such limit on cession/retrocession.

We also understand that there is a need for prior approval for share transfer of a public company exceeding 5% of its paid up equity share capital.[186] This requirement of prior approval on share transfer stems from the Insurance Act, 1938.[187] When we compare this requirement with other financial centres, prior approval of the regulator is required only in the event of transfer of 'substantial' or 'majority' shareholding. For transfer of shares below such thresholds, only disclosures are required.

We also observed that the regulations made for the intermediaries impose a condition where an intermediary cannot earn more than 50 % of the remuneration from any one client in a financial

[185] Regulation 21(e)(i) of the IRDAI {Registration and Operations of International Financial Service Centre Insurance Offices(IIO)} Guidelines, 2017
[186] Regulation 17(14) of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021
[187] Section 6A(4)(b) of the Insurance Act, 1938

year.[188] Further, the definition of 'client' includes an associate or a subsidiary or a group concern under the same management in the case of a firm or a company. We did not find such a cap on remuneration in any of the jurisdictions which formed part of our study. Keeping the international practices in consideration, IFSCA may revisit these conditions.

General recommendations

VII.7 Taxation benefits

Tax as a cost component affects the decision making of businesses. Hence, jurisdictions often impose a liberal tax regime in order to attract businesses.[189] The *High Powered Expert Committee on Making Mumbai an International Financial Centre* observed that an international financial centre should not become a tax haven, but it must offer taxation policy at par with international standards.[190] Usually the international centres either offer long tax holidays like DIFC or low tax rates in centres like Singapore or London. More importantly, these centres offer a simple and fair taxation policy.

IFSC provides several taxation benefits with the intent to promote financial activities. Under the extant framework, there is 100 % income tax exemption for 10 consecutive years out of the first 15 years, and the IFSC unit has the flexibility to select any 10 years out of the total block of 15 years. Units are exempted from GST. They can also avail a lower minimum alternate tax (9 %). Further, subject to certain conditions, IFSC units are entitled to exemption from commodity transaction tax, securities transaction tax, tax on long term capital gains and dividend distribution tax.

Two views emerged based on our stakeholders' consultations. The *first* view was in favour of a longer duration of tax holiday. This was based on the rationale that IFSC, as a new competitor in the global market, may have to offer better benefits than the other centres. Possibly this is why some of the relatively new centres have allowed tax concessions for longer durations. For instance, DIFC established in 2004 provides a tax holiday of 50 years. Further, in DIFC there is no personal income tax. Similarly, the upcoming Abu Dhabi Global Market set up in 2015, has also offered tax incentives for a duration of 50 years. While these centres have longer tax benefits starting from the commencement of the centres, IFSC follows a different approach. Here, entities have the flexibility to choose a block of 10 years from the first initial 15 years of operations.

[188] Regulation 22(1) of the International Financial Services Centres Authority (Insurance Intermediary) Regulations, 2021
[189] Ansari and Agarwal (December, 2019), *Monograph: Insurance Governance for World's largest democracy*, https://www.bimtech.ac.in/media/events/191/monograph-written-with-bimtech-as-the-knowledge-partner-
[190] Ministry of Finance (2007), *Report of the High Powered Expert Committee on Making Mumbai an International Financial Centre*, URL: https://dea.gov.in/sites/default/files/mifcreport.pdf

The *second* view was that taxation benefits may not be the sole reason for an entity to decide the place of business. Rather, firms look for a fair and rational tax system with sufficient ease of doing business. As business activities increase, regulators benefit from collection of taxes, whereas businesses benefit from a friendly taxation system. We suggest that IFSC needs to strike a balance between these two factors to create a sustainable ecosystem both for the regulator and the regulated entities.

VII.8 Dispute resolution

As is the case with all financial services, contract enforcement assumes a significant role in insurance or reinsurance transactions. However, India does not hold a promising track record in settling disputes. In the years 2019 and 2020, India stood at the 163rd position in the World Bank's Doing Business survey on the parameter of disputes settlement. As per the survey, while Singapore takes only 164 days to settle a dispute, it takes around 1445 days in a Bombay Civil Court.[191] At present, it appears that disputes in the IFSC would be subject to the courts in Gujarat, which can cause delays in contract enforcement.

When it comes to financial disputes, experience of global hubs show that these centres prefer alternative dispute resolution like arbitration in institutions like SIAC, ICC International Court of Arbitration, or London Court of International Arbitration. However, even when a party in the IFSC obtains a favourable award from an international arbitral institution, it needs to be enforced/executed through a civil court in Gujarat, where the opposite party can challenge the validity of the award on certain grounds.[192] This can result in delays.

Similar concerns were raised in the past by the *Committee on development of avenues for ship acquisition, financing and leasing from IFSC in India*. The Committee recommended developing a mechanism to contain the whole process within the boundaries of the IFSC without recourse to civil courts in Gujarat.[193] For this, guidance can also be drawn from the DIFC which is independent of federal, civil and commercial laws that apply elsewhere in the UAE. DIFC has set up two levels of courts: the CFI and a Court of Appeal. The Court of Appeal has jurisdiction to hear appeals from the CFI. There is no further appeal possible from the Court of Appeal, the decision of which is final.

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[191] The World Bank Group, *Ease of Doing Business 2020, Measuring Business Regulations*, URL:https://www.doingbusiness.org/en/data/exploreeconomies/india#DB_ec
[192] Section 48 of the Arbitration and Conciliation Act, 1996
[193] IFSCA (October 2021), *Report of the Committee on Development of Avenues for Ship Acquisition, Financing and Leasing from IFSC in India*, URL: https://ifsca.gov.in/Viewer/ReportandPublication/17

Another challenge is that India does not have a framework on third party litigation funding where a party outside the litigation pays for its cost. Since litigation can be expensive and can affect cash flows, third party funding allows the businesses to unlock their capital for productive activities. Financial hubs like Singapore and Hong Kong have made appropriate changes to their domestic laws to allow third party funding for arbitration and mediation proceedings.[194] In 2018, the Supreme Court[195] noted that there was no limitation on third-party funding. Some of the states including Gujarat, Karnataka, Madhya Pradesh, and Maharashtra have amended the Code of Civil Procedure, to recognize the role of a financier of litigation costs of a plaintiff. However, there is no central law in India that sets out this position, which adds to uncertainty on how the courts would respond to such an arrangement.[196] In 2017, the *High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India,*[197] headed by Justice B.N. Srikrishna recommended allowing third party litigation funding in India.

At present, SICA has opened a representative office in the GIFT City IFSC, which is a promising step. IFSCA is also trying to promote the GIMAC. However, to convince foreign entities to set up businesses in the GIFT City IFSC, we need to offer them fair and quick finality of disputes. One of the possible options is international arbitration, but to ensure it works like in the other jurisdictions, IFSC may require special treatment under the Arbitration and Conciliation Act, 1996 and other applicable laws.

IFSCA may also explore the possibility to invite more international arbitral institutions to set up their offices in the GIFT City IFSC. Establishing multiple institutions in the IFSC will not only provide competitive choices to the businesses, it would also promote the culture of institutional arbitration in India, where mostly ad-hoc arbitration is popular. Gradually this will generate local expertise in commercial arbitration at par with the global standards.[198]

VII.9 Capacity building of IFSCA

The study of other jurisdictions attests to the critical role regulators play in positioning markets in the global financial ecosystem. Issuing proactive regulations aligned with the market needs and developing the market are the usual attributes of a high performing regulator. Under the IFSCA

[194] Ministry for Law and Justice (July, 2017), *Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India,* URL: https://legalaffairs.gov.in/sites/default/files/Report-HLC.pdf
[195] Bar Council of India V AK Balaji, CIVIL APPEAL NOS.7875-7879 OF 2015, URL:https://indiankanoon.org/doc/132041574/
[196] Sane and Gulati (May, 2021), *Why do we not see class action suits in India? A case of consumer finance*, Leap Blog, URL: https://blog.theleapjournal.org/2020/05/why-do-we-not-see-class-action-suits-in.html
[197] Ministry for Law and Justice (July, 2017), *Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India,* URL: https://legalaffairs.gov.in/sites/default/files/Report-HLC.pdf
[198] To promote international arbitration, Singapore has exempted income derived by a non-resident arbitrator for arbitration work carried out in Singapore. See, Ministry for Law and Justice (July, 2017) *Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India,* URL: https://legalaffairs.gov.in/sites/default/files/Report-HLC.pdf

Act, IFSCA is mandated to render both the functions. Although IFSCA is a newly formed body, it is expected to play an active role to help the IFSC grow, compete and promptly occupy a global position. Developing so much capacity in a short duration is an arduous task which leads to the need for capacity building.

Financial, human and technological resources form the core strength of any modern organisation. Experience of other regulators in India suggest that a lack of financial resources or autonomy can create impediments in the pursuit of capacity building. For instance, it can affect the decision to hire staff with requisite expertise or adopt the latest technology to render regulatory mandates in an effective manner. Hence, operational autonomy is a prerequisite for IFSCA to grow as an effective regulator. For instance, IFSCA must have the discretion to offer attractive compensation to draw young talent and experts from both the public and private sector. Usually, new regulators in India source staff from other government departments and regulators on deputation or permanent basis. This arrangement may be needed in the formative stage for availing rich experience of such staff. However, it ought to be complemented by hiring best talents from various segments, including industry, civil society, and academia – both domestic and overseas.

Over the next few years, subject to resource considerations, IFSCA may consider setting up its own capacity building institute on the lines of other regulators like MAS and DIFC. For instance, DIFC Academy has partnered with reputable institutions (like University of Paris) to offer various programmes. The academy also helps enlarge DIFC's talent pool that is drawn from across the globe.[199]

[199] DIFC Academy, *About Us*, URL:https://academy.difc.ae/about-us/

Capacity building program of MAS, Singapore[200]
To keep up with growing complexities of the industry, improving productivity, and maximising our potential, MAS encourages staff to continually develop and deepen their skills. For this purpose, it offers various forms of training. 1. General training: A broad suite of general development training programmes based on the Capacity, Leadership, Interpersonal skills, and Personal attributes (CLIP) framework are offered to staff. 2. Academic training: The MAS Academy[201] (training and knowledge arm of MAS) offers the MAS Diploma - a three-year flagship programme, which gives a broad-based education on MAS' key functions. The compulsory modules cover the foundations of central banking, financial regulation, supervision and development. 3. Functional training: The MAS Academy offers technical programmes to build and strengthen functional competencies required across the organisation, as guided by MAS' Professional Requisites and Outcomes Framework (PROF).

At present, IFSCA has framed the Employees' Service Regulations, 2020, which governs the conditions for employees working at the IFSCA. While the regulations are extensive, going forward the IFSCA may consider a documented training policy that addresses training requirements for new and existing employees to match up with the growing complexities of the financial sector. For instance, secondments, exchange programs with established financial regulators like MAS, FCA or SEC should be regular and planned, and not on an ad-hoc basis. Creating an annual as well as long term activity plan will be helpful. Tie-ups with global institutions, who offer world class programs in domains like regulatory governance and financial sector, must be considered. Scholarship programs may be designed for the IFSCA staff, so they could gain exposure to international standards in their areas of functioning. Long term collaboration with premier domestic institutions should be established to design internship programs for students and refresher courses to suit the needs of staff at IFSCA.

Another essential element of capacity building is to institutionalise the practice of setting annual performance targets followed by annual performance appraisal. At present, the IFSCA regulations

[200] MAS, *Annual Report 2015-16, One MAS: Integrated and cohesive,* URL: https://www.mas.gov.sg/annual_reports/annual20152016/chapter_5/people-development.html
[201] MAS Academy is the training and knowledge arm of MAS for staff training and technical cooperation programmes.

provide for performance linked promotion, however, creating a defined policy on annual targets and key performance indicators for evaluation may be considered.

We have noted that IFSCA has already taken encouraging initiatives like entering into MoU with the BRTSIF and IAI to promote fintech in the insurance sector. It is also a member of the global forum – International Association of Insurance Supervisors. Earlier in 2017, GIFT IFSC had signed a MoU with the Gujarat National Law University to collaborate on efforts for skill development in the field of international financial services. While these measures are laudable, there is merit in institutionalising the capacity building program. This means IFSCA may frame a written policy, create an annual activity plan for capacity building exercises and allocate an annual budget. There must also be periodic impact assessments of such measures.

VII.10 Global city

For GIFT IFSC to become a global reinsurance hub, it needs to become a global city. The *High Powered Expert Committee on Making Mumbai as International Financial Centre* noted that one of the main prerequisites for the cluster effect to take off in a financial centre is the presence of world class living facilities which are dependent on factors, like infrastructure, amenities, medical care, education, and recreation.[202] The city must not only attract the working population, but also their families. If GIFT City IFSC aspires to join the club of international financial centres, it would have to create an ecosystem equivalent to other centres to attract the brightest minds of the world by being an attractive place to live, work and play. That will mean providing more user-friendly visa/resident permit mechanisms, making all arms of government expatriate-friendly, and exhibiting a gentle, tolerant, open and welcoming culture. GIFT City IFSC will need to be seen as a cosmopolitan metropolis that welcomes and embraces migrants from everywhere – from India and abroad.

This would also require respect for food and other preferences of a cosmopolitan population. In reality, allowing certain lifestyles could result in increasing social tension - a risk that needs to be managed sensitively and skilfully. For instance, while in the UAE, consumption of liquor has been regulated, there are no restrictions in the DIFC, since liquor forms an important part of recreation for expats coming from different parts of the world. The proposal to lift restrictions (such as relaxation of certain provisions of the Gujarat Prohibition Act, 1949) on sale and consumption of liquor in the GIFT City IFSC has been in place for some years now. However, it is not clear whether a firm decision has been taken on the proposal.

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[202] Ministry of Finance (2007), *Report of the High Powered Expert Committee on Making Mumbai an International Financial Centre*, URL: https://dea.gov.in/sites/default/files/mifcreport.pdf

Further, all the international financial centres are extremely well connected, which is crucial for people working there for both personal and professional mobility. While the SVPIA serves the twin cities of Ahmedabad and Gandhinagar, it would have to offer frequent and direct connectivity to international cities and services at par with the airports catering to the developed financial hubs. Singapore's Changi Airport (5 star rating) has been named the world's best airport for the eighth year in a row at the annual Skytrax World Airport Awards. At present, SVPIA has secured three star rating.[203] In essence, the experience of living in the GIFT City IFSC can have a bearing on the decision of the businesses to set up operations.

[203] Skytrax is a U.K. based consultancy which runs an airline and airport review and ranking site. It provides annual ratings to all international airports in the world. See, Skytrax rating, URL: https://skytraxratings.com/airports/ahmedabad-international-airport-rating

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