Public comments on draft IFSCA (Market Infrastructure Institutions) (Amendment) Regulations, 2024

Comments of NSE IFSC LIMITED					
Sr. No.	**Paragraph no. as per annexure 1 of the Consultation Paper**	**Regulation no.**	**Comments /Suggestion / Proposed amendment**	**Detailed Rationale**	**Other supporting information**
1	(h) Public interest director shall be nominated for a term of three years, extendable by another term of three years subject to performance review as may be specified by the Authority: **Provided that post the expiry of term(s) at the recognised market infrastructure institution, a public interest director may be appointed, with the prior approval of the Authority, for a further term of three years in any other recognised market infrastructure institution, only after a cooling-off period of one year: Provided further that a person may be appointed as a public interest director for a maximum of three terms across recognised market infrastructure institutions, subject to a maximum age limit of seventy five years**	Regulation 24 (2) (h)	(h) Public interest director shall be nominated for a term of **Five** years, extendable by another term of three years subject to performance review as may be specified by the Authority: Provided that post the expiry of term(s) at the recognised market infrastructure institution, a public interest director may be appointed, with the prior approval of the Authority, for a further term of **Five Years** in any other recognised market infrastructure institution, **only after a cooling-off period of one year:** Provided further that a person may be appointed as a public interest director for a maximum of three terms across recognised market infrastructure institutions, subject to a maximum age limit of seventy five years	In the Companies Act, 2 terms of 5 years are allowed.	SEBI has recently issued a consultation paper on the appointment of PUBLIC INTEREST DIRECTOR highlighting a shortage of independent experts for these roles. To attract skilled and qualified candidates, SEBI has removed the requirement for a one-year cooling off period, except when a PID intends to join a competitor MII or an associate of a competitor MII. The proposed limit of a "maximum of three terms" may also be reconsidered in this context. SEBI Consultation paper link: https://www.sebi.gov.in/reports-and-statistics/reports/aug-2024/consultation-paper-on-provisions-pertaining-to-appointment-of-public-interest-directors-_86313.html
2	**Code of Conduct for directors and key management personnel** (1) **The governing board, directors, committee members and key management personnel** of a recognised market infrastructure institution shall abide by such Code of Conduct specified under **Part -B of Schedule-I of these regulations.**	Regulation 25: Code of Conduct	The frequency of disclosures is suggested to be **quarterly instead of monthly.**	For ease of operation.	

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3	**(1) A recognised market infrastructure institution shall constitute the committees as per sub regulation (2), sub regulation (3) and sub regulation (4). (2) Functional committee, comprising: (a) Member committee; (b) Nomination and remuneration committee (3) Oversight committee, comprising: (a) Standing committee on technology;** **(b) Regulatory oversight committee; and (c) Risk management committee.** **(4) Investment committee. (5) The composition, quorum and functions of the committees under sub regulation (2), (3) and sub regulation (4) shall be in the manner as specified by the Authority from time to time.**	Regulation 26: Committees	The number of Committees mentioned in the circular dated June 28, 2022 and the ones mentioned in the proposed amended regulations are different. Also a business development committee with members may also be kept giving the nascent stage of Capital Markets in GIFT IFSC.	In the Repeal & Savings, this Circular should get superseded by the Regulation.	
4	**(1) A recognised market infrastructure institution shall identify its core and critical functions, and segregate them into the following verticals: a) Vertical 1: Critical Operations b) Vertical 2: Regulatory, Compliance, Risk Management and Investor Grievances;** **c) Other functions including business development (2) The functions of the verticals under sub-regulation (1) above are provided at Schedule-II of these regulations.** **(3) Every market infrastructure institution shall ring-fence the functions and personnel under vertical as provided at clause (b) of sub-regulation (1) from the functions and personnel of other verticals.**	Regulation 27: Segregation	Clarification may be provided on the following 4 functional areas viz. Corporate Secretarial, Legal, Admin&Premises and HR which are corporate support services in terms of the Vertical they should fall into.	Legal department may comprise of Regulatory and non-regulatory (including commercial aspects) work areas as we understand domestic MII's have not adopted uniform practice on this.	
5	**(7) Such framework shall specify the contribution to be made by a recognised stock exchange, recognised clearing corporation and the clearing members to the fund.** **(8) In case of shortfall in the fund, the recognised clearing corporation and the recognised stock exchange shall replenish the fund to the threshold level.**	Regulation 31: Settlement Guarantee Fund	It is suggested that Market Participants may be required to contribute majorly into the SGF in line with numerous reputed international jurisdictions.		
6	**(1) A recognised market infrastructure institution shall appoint a chief legal officer, separately, in addition to a chief risk officer, who shall take necessary steps to mitigate the**	Regulation 63B: Chief Legal Officer	It is suggested that an additional option of engaging external legal	To fulfil the regulatory intent of ensuring sound	

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	legal risk associated with the functioning of a recognised market infrastructure institution. (2) The chief legal officer shall be responsible for vetting of the bye-laws or any amendment therein before submission to the Authority for approval. (3) The chief legal officer shall also be responsible for vetting of legal documents for any cross border arrangement proposed to be entered into by a recognised market infrastructure institution.		counsel (s) on retainer basis may be provided	legal governance on wide array of legalities which may be difficult with in-house person. Additionally, this may be more cost efficient for MII's.	
7.	**A recognised market infrastructure institution shall appoint a chief risk officer to identify, monitor and initiate necessary steps to mitigate the risk associated with the functioning of a recognised market infrastructure institution. (2) The chief risk officer shall be responsible for the overall risk management of the recognised market infrastructure institution and submit a report to the Authority on a half-yearly basis.**	**63A**	It is suggested if the position can be titled as Head - Risk at "Senior Manager" designation level. Also, clarity may be provided whether the Risk function can be part of Regulatory area.	Both regulatory and risk management have been classified under the same vertical in the proposed amendments.	
(i) Should the regulations mandate at least two-third of the total members of the Governing Board to be the Public Interest Directors/Independent Directors? No. Current framework of having equal representation of PID/ID and SHD seems to be adequate.					
(ii) Whether Managing Director of an MII should be classified as a shareholder director? Yes.					
(iii) Whether the approval of shareholders should be mandatory for the appointment of a Public Interest Director? As per the SEBI (SECC) Regulations, 2018 approval of shareholders is not required for the appointment of a Public Interest Director. However, Section 152 "Appointment of Directors" of the Companies Act, 2013 mandates that "Save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting." To address the mandatory provision of the Companies Act, one of the options that SEBI has proposed is the induction of shareholder directors in NRC to ensure adequate representation of shareholders for appointment of PID's. It is suggested, that the appointment process of PID may be aligned to the above-mentioned process recommended in the recent SEBI consultation paper (August 24, 2024), The relevant link of the SEBI consultation: https://www.sebi.gov.in/reports-and-statistics/reports/aug-2024/consultation-paper-on-provisions-pertaining-to-appointment-of-public-interest-directors-_86313.html				

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Other Comments/Suggestions **Request for the permanent recognition:** In reference to the regulation 12 of the MII regulations, IFSCA is requested to consider granting permanent recognition to MII's who meet some eligibility criteria i.e Profitable and /or have net worth more than 4 times the minimum net worth prescribed in addition to meeting ongoing compliances. This will go a long way in boosting the confidence of international market participants and having yearly recognition for MII's from Optics is not desirable. Also given the fact that broker dealers admitted by MII's are granted permanent registration by IFSCA subject to meeting ongoing compliance.					

Comments of NSE IFSC Clearing Corporation Limited					
Sr. No.	**Paragraph no. as per annexure 1**	**Regulation no.**	**Comments /Suggestion / Proposed amendment**	**Detailed Rationale**	**Other supporting information**
8	7	15	The SGF Contribution made by the CC and interest thereon should be included in its Net Worth. Accordingly, we suggest the following amendment: Explanation II - For the purposes of this regulation, 'net worth of a clearing corporation' means the aggregate value of its liquid assets calculated in the manner as specified by the Authority from time to time. Provided the clearing corporation contribution to SGF and interest on cash contribution to SGF by CC, shall be considered as part of its net worth Explanation III: Cash and bank balance, fixed deposits, Government Securities and other instruments as may be specified by the Authority from time to time shall be considered as 'liquid assets' for the purpose of calculation of net worth of a clearing corporation.	The SGF Contribution made by CC is being made from its own fund, hence we have proposed to include the same in the Net Worth of CC.	
9	9	17(1)(b)	Kindly replace the word "stock exchange" to "clearing corporation" as below: a joint venture of market infrastructure institutions recognised in India, an IFSC or a Foreign Jurisdiction with a minimum of fifty-one per cent of the paid-up equity share capital of the recognised ~~stock exchange~~ Clearing Corporation held by such joint venture	Regulation 17 specifically pertains to the shareholding in recognised clearing corporation	

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10	10	18(1)(b)	Kindly replace the word "stock exchange" to "depository" as below: a joint venture of market infrastructure institutions recognised in India, an IFSC or a Foreign Jurisdiction with a minimum of fifty-one per cent of the paid-up equity share capital of the recognised ~~stock exchange~~ Depository held by such joint venture	Regulation 18 specifically pertains to the shareholding in recognised depository	
11	15	24(2) (h)	We suggest that the requirement of 1 (One) year cooling period, after 2 (Two) terms of 3 (Three) years each as Public Interest Director, may be excluded.	Since the public interest directors are "Independent Directors" hence they are independent of the Management. They are professionals with high integrity who provide expertise to the organizations in their respective fields and provide a neutral opinion. In addition, their association as PIDs institutions, which will be beneficial to other similar institutions with the MIIs, provide them to have a specialised experience of these	
12	16	24(2) (i)	We suggest that the maximum age of MD/CEO may continue be seventy years in line with the Companies Act, 2013.	We submit that in the initial years of the development of IFSC institutions, the criteria may be more relaxed to attract experienced talent in various sectors. This will be in line with international practices.	
13	17	25	We suggest that the clarity w.r.t. the role of the Board and the Management may be provided. Therefore, we suggest that the role of the Board of Directors may broadly be defined as to give guidance to the Company in the strategy, governance and policy making. The Board shall also be responsible for setting performance objective and monitoring the corporate performance, strategy/ strategy guidance.	Role of Governing Board and Management shall broadly be defined.	

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			Similarly, the role of the Management may broadly be defined as to comply with Regulations, implementation of board guidance and managing day to day operations.		
14	19	26	IFSCA Circular IFSCA/CMD/DMIIT/MII/CG/2022-23/1 dated June 28, 2022, requires constitution of following committees in MIIs: A. Functional Committees: 1. Member Selection Committee 2. Investor Grievance Redressal Committee 3. Nomination and Remuneration Committee b. Oversight Committees: 4. Standing Committee on Technology 5. Advisory Committee 6. Audit Committee 7. Regulatory Oversight Committee 8. Risk Management Committee However, the said circular has not been repealed.	One new Committee has been introduced and 2 Committees have been removed as compared to the IFSCA circular IFSCA/CMD/DMIIT/MII/CG/2022-23/1 dated June 28, 2022. Terms of reference of new Committees are not defined.	
15	20	27	We suggest that the Legal and Secretarial Function(s) shall be considered as core and critical functions, which may be included in Vertical 2. Accordingly, we propose the following amendment to the clause: (1) A recognised market infrastructure institution shall identify its core and critical functions, and segregate them into the following verticals: a) Vertical 1: Critical Operations b) Vertical 2: Regulatory, Compliance, Risk Management, Legal, Secretarial and Investor Grievances; Other functions including business development	Legal and Secretarial Function(s) to be included in the core and critical functions of MII under Vertical 2. The similar changes to be also made in the Schedule-II.	
16	21	31	The clearing members shall also contribute to replenish the fund to the threshold level in case of shortfall in the fund. Accordingly, we propose the following amendment to the clause:	The clearing members shall also contribute to replenish the fund to the threshold level in case of shortfall in the fund	

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			(7) Such framework as approved by IFSCA, shall specify the contribution to be made by a recognised stock exchange, recognised clearing corporation and the clearing members to the fund. (8) In case of shortfall in the fund, the recognised clearing corporation, ~~and~~ the recognised stock exchange and the clearing members shall replenish the fund to the threshold level as per the framework, as approved by IFSCA.		
17	29	63B	We suggest that due to issues with respect to availability of expertise and talent, CC may be permitted to engage independent legal counsel, consultants or law firms to fulfil the regulatory role instead of appointing a Chief Legal Officer. It may be noted that the requirement is not applicable in Domestic MIIs.	There should be an option to engage independent legal counsel, consultant or law firms to fulfil the regulatory intent of ensuring sound legal governance while offering additional flexibility and cost efficiency.	
18	33	Schedule-II	We suggest that the Legal and Secretarial Function(s) shall be considered as core and critical functions, which can be included in the Vertical 2.	Legal and Secretarial Function(s) to be included in the core and critical functions of MII under Vertical 2. The similar changes to be also made in Regulation 27.	
19	-	2(1)(c)	The Clearing Corporation proposes to clear and settle trades executed in OTC Markets; accordingly we propose to amend the definition of clearing corporation as below: Submission made on September 19, 2024: "Clearing corporation" means an entity that is established to undertake the activity of clearing and settlement of trades in securities or other instruments or products that are dealt with or traded on a recognised stock exchange, or traded in OTC markets in IFSC, or provides any other ancillary services related to clearing or settlement of trades in securities or other instruments or products as approved by the IFSC Authority, and includes a clearing house. **Revised submission for the amendment in the definition of the Clearing Corporation:**	The Clearing Corporation also clear and settle trades executed on OTC Markets.	

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			"Clearing Corporation" means an entity that is established to undertake the activity of clearing and settlement of trades in securities or other instruments or products that are dealt with or traded in IFSC or in a Foreign Jurisdiction and includes a clearing house.		
20	-	10	We request the IFSCA to consider granting a permanent recognition or at least renew the recognition of MIIs for a minimum period of 3 years, which can be subject to a yearly inspection.	This will pose to be another step for ease of doing business in IFSC.	
i. Should the regulations mandate at least two-third of the total members of the Governing Board to be the Public Interest Directors/Independent Directors? Comment: The existing provisions IFSCA MII Regulations 2021, prescribe that at least half of the total members of the Governing Board should be the Public Interest Directors/Independent Directors. This adequately brings an independent judgment on board deliberations. Accordingly the same may be continued.					
ii. Whether Managing Director of an MII should be classified as a shareholder director? Comment: The appointment of MD is approved the Shareholders in the General Meeting and as per MII Regulations. The "shareholder director" means a director who represents the interest of shareholders and elected or nominated by such shareholders. Accordingly, the Managing Director of an MII shall continue to be classified as a shareholder director.					
iii. Whether the approval of shareholders should be mandatory for appointment of a Public Interest Director ? Comment: Section 152 "Appointment of Directors" of the Companies Act, 2013 provides that "Save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting." However as per the SEBI (SECC) Regulations, 2018 approval of shareholders is not required for appointment of a Public Interest Director, accordingly the MIIs in domestic markets do not take the approval of shareholders for the appointment of PIDs.					

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21	15	Regulation 24(2) (h)	It is suggested that the proposed regulations may be read as follows: Public interest director shall be nominated for a term of three years, extendable by another term of three years subject to performance review as may be specified by the Authority:	The cooling-off period may be applicable in case of resignation of a PID also, even if the term is not completed. The proposed regulation does not cover this condition.	

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			Provided that post the expiry of term(s) at the recognised market infrastructure institution, a public interest director may be appointed, with the prior approval of the Authority, for a further term of three years in any other recognised market infrastructure institution, only after a cooling-off period of one year. Further, the cooling-off period will also be applicable in case of resignation of public interest director before the completion of term. Provided further that a person may be appointed as a public interest director for a maximum of three terms across recognised market infrastructure institutions.		
22	18	Regulation 25 A: Compensation of key management personnel	It is suggested that the following clause be removed: (3) The compensation policy shall have malus and clawback arrangements.	IFSC is an upcoming, evolving jurisdiction. It is necessary to develop a strong talent pool to assist in its development into a world class international financial services center. Hiring, retaining quality people is the focus of MIIs to help in sustained development of the institution. At this stage of development of the IFSC, where attracting talent of calibre is a difficult exercise in itself, malus and clawback clauses would be a further deterrent and it is suggested that such clauses may kindly be introduced once the IFSC	

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				has grown into a premier, world class, imminent jurisdiction, where attracting and retaining high quality talent is a much easier proposition.	
23	19	Regulation 26: Committees	(4) Requirement of forming Investment committee under sub regulation (4) may considered to be removed.	India INX already has an internal Investment Committee in place. All strategic investment decisions are taken only after approval of the Investment Committee and Governing Board. In view the above and considering the fact that MIIs in GIFT IFSC presently have limited investment options, such as fixed deposits with IBUs, formation of Investment Committee may kindly be mandated at later stage once GIFT IFSC has more investment avenues like in the domestic market.	
24	28	Regulation 63 A Chief Risk Officer	It is suggested that Chief Regulatory Officer can also act as Chief Risk Officer by managing the additional responsibilities. Seeking your advice on the above.	A GIFT IFSC is gradually emerging into a prominent international financial centre. We are still in the initial stages of development in terms of number of active products, members, market participants, investors, framing of regulations etc. at IFSC. In view of the above appointing a Chief Risk Officer at this stage of development of MIIs would only increase the manpower / cost burden, when the role of Chief Risk Officer can be managed by Chief Regulatory Officer.	-
25	29	Regulation 63B: Chief Legal Officer	It is suggested that this clause be removed.	GIFT IFSC is gradually emerging into a prominent international financial centre. We are still in the initial stages of development in terms of number of active products, members, market participants investors etc. at IFSC. The activities at the MIIs have yet to scale up to a level where a large number of legal matters, documents, procedures, cases etc. are required to be attended to on a regular basis. Amendments to byelaws, rules, regulations are an infrequent exercise. Cross borders arrangements have standardised templates and do not require major	

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				changes in their provisions. There are very few other legal matters, documents, cases etc. which require to be addressed or attended to during the course of day to day activities at the MIIs, for which a full time Chief Legal Officer may be required to be appointed. In view of the above appointing a Chief Legal Officer at this stage of development of MIIs would only increase the manpower / cost burden, when this activity can be carried out through legal consultants / legal team of promoter institution / in house company officials.	
26	16	Regulation 24 (2) (i): Governance norms	In order to have standardise process, it is requested that the process of appointment of Managing Director & Chief Executive Officer (MD&CEO) for the first and subsequent term may kindly be specified by the Authority.	-	-
27		Part B (See sub-regulation (1) of the regulation 25) Code of Conduct for governing board, directors, committee members and key management personnel. **I. Governing Board** ensure that the agenda papers are approved by the Chairman of the Governing Board.	It is suggested this clause may kindly be removed.	It may become very difficult to get each and every agenda paper approved from the Chairman, as many of the agenda items comprise routine, procedural matters. However, as a standard corporate governance practice, we already brief the Chairman well in advance i.e. before the initiation of meeting proceedings.	

Additional Comments of India INX

Questions	Provision as perCompanies Act, 2013/CompaniesRules	Provision as per SEBISecurities Contracts (Regulation) (SECC) Regulations, 2018	Provision as perIFSCA (MII) Regulations, 2021	Suggested Answers	Rationale
Should the regulations mandate at least two-third of the total members of the Governing Board to be the Public Interest Directors/Independent Directors?	As per rule 4 of (Appointment and Qualification of Directors) Rules, 2014, public companies withspecified limits as on thelast date of latest auditedfinancial statements mentioned below shall also have at least 2 directors as independent directors.	As per regulation 23 (3) of Securities Contracts (Regulation) (SECC) Regulations, 2018): The number of public interest directors shall not be lesser than the number of non-independent directors on the governing board of recognised stockexchange.	Regulation 24(2)(b): The number of public interest directors shall not be less than the number ofshareholder directors.	It is suggested that the regulations may not mandate that at least two-third of total members of the Governing Board to be the Public Interest Directors/Independentdirectors.	i. Since the exemption is already given to the IFSCcompanies vide MCAnotification dated 4thJanuary, 2017 and to keep inline with the SEBISecurities Contracts (Regulation) (SECC)Regulations, 2018). ii. Further, as per the existing IFSCA (MII) Regulations, 2021, the Chairman is required to be appointed out of the PIDs only hence the decision making power will always remain withthe PIDs only.
Whether Managing Director of an MII should be classified as a shareholder director?	Section 2(54): "Managing director" means a director who, byvirtue of the articles of acompany or anagreement with thecompany or a resolutionpassed in its generalmeeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes	Regulation 23(4): The managing director shall be included in the category of non-independent director.	Regulation 24(1)(c) The managingdirector shall be included in the category of shareholder directors	It is proposed that the existing clause may remain without any modification and hence it is suggested that the managing director may be continue to classified as a shareholder	To keep in line with the SEBI Securities Contracts (Regulation) (SECC) Regulations, 2018).

	a director occupying the position of managing director, by whatever name called.			director.	
Whether the approval of shareholders should be mandatory for appointment of a Public InterestDirector?	Section 150(2): 2) The appointment of independent director shall be approved by the company in general meeting as provided in sub-section (2) of section 152 and the explanatory statement annexed to thenotice of the general meeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment asindependent director.	Regulation 24(2): The public interest directors on the governing board of the recognised stock exchange(s) and the recognised clearing corporation(s) shall be 55[appointed with the prior approval of]the Board.	The appointment of directors of a recognised market infrastructure institution shall be subject to the prior approval of theAuthority and the fulfilment of other requirements as may be specified by the Authority.	It is suggested that the approval of shareholders may not be mandatorily required for appointment of a Public Interest Director.	While PIDs in MIIs can be considered similar to independent directors in a company, their role includes to look after the interest of the investing public. This element of difference shall be considered for MIIs, asthey are public utilityinfrastructure institutionsand have been kept on a higher pedestal than other companies. IFSCA as the regulatory body under thestatute is vested withadequate powers and can exercise oversight in respect of operations of an MII, including approval of appointment of directors inMIIs whether PID or Shareholder directors, to ensure that the interest of all stakeholders are protected. Further, as per Regulation 24 (2) of SEBI

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28	15	Regulation 24(2) (h)	It is suggested that the proposed regulations may be read as follows: Public interest director shall be nominated for a term of three years, extendable by another term of three years subject to performance review as may be specified by the Authority: Provided that post the expiry of term(s) at the recognised market infrastructure institution, a public interest director may be appointed, with the prior approval of the Authority, for a further term of three years in any other recognised	The cooling-off period may be applicable in case of resignation of a PID also, even if the term is not completed. The proposed regulation does not cover this condition.	-

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			market infrastructure institution, only after a cooling-off period of one year. Further, the cooling-off period will also be applicable in case of resignation of public interest director before the completion of term. Provided further that a person may be appointed as a public interest director for a maximum of three terms across recognised market infrastructure institutions.		
29	18	Regulation 25 A: Compensation of key management personnel	It is suggested that the following clause be removed: (3) The compensation policy shall have malus and clawback arrangements.	IFSC is an upcoming, evolving jurisdiction. It is necessary to develop a strong talent pool to assist in its development into a world class international financial services center. Hiring, retaining quality people is the focus of MIIs to help in sustained development of the institution. At this stage of development of the IFSC, where attracting talent of calibre is a difficult exercise in itself, malus and clawback clauses would be a further deterrent and it is suggested that such clauses may kindly be introduced once the IFSC has grown into a premier, world class, imminent jurisdiction, where attracting and retaining high quality talent is a much easier proposition.	
30	19	Regulation 26: Committees	(4) Requirement of forming Investment committee under sub regulation (4) may considered to be removed.	India ICC already has an internal Investment Committee in place. All strategic investment decisions are taken only after approval of the Investment Committee and Governing Board. In view the above and considering the fact that MIIs in GIFT IFSC presently have limited investment options, such as fixed deposits with IBUs, formation of Investment Committee may kindly be mandated at later stage once GIFT IFSC has more investment avenues like in the domestic market.	

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31	29	Regulation 63B: Chief Legal Officer	It is suggested that this clause be removed.	GIFT IFSC is gradually emerging into a prominent international financial centre. We are still in the initial stages of development in terms of number of active products, members, market participants investors etc. at IFSC. The activities at the MIIs have yet to scale up to a level where a large number of legal matters, documents, procedures, cases etc. are required to be attended to on a regular basis. Amendments to byelaws, rules, regulations are an infrequent exercise. Cross borders arrangements have standardised templates and do not require major changes in their provisions. There are very few other legal matters, documents, cases etc. which require to be addressed or attended to during the course of day to day activities at the MIIs, for which a full time Chief Legal Officer may be required to be appointed. In view of the above appointing a Chief Legal Officer at this stage of development of MIIs would only increase the manpower / cost burden, when this activity can be carried out through legal consultants / legal team of promoter institution / in house company officials.	
32	16	Regulation 24 (2) (i): Governance norms	In order to have standardise process, it is requested that the process of appointment of Managing Director & Chief Executive Officer (MD&CEO) for the first and subsequent term may kindly be specified by the Authority.	-	-
33		Part B (See sub-regulation (1) of the regulation 25) Code of Conduct for governing board, directors, committee members and key management personnel.	It is suggested this clause may kindly be removed.	It may become very difficult to get each and every agenda paper approved from the Chairman, as many of the agenda items comprise routine, procedural matters. However, as a standard corporate governance practice, we already brief the Chairman well in advance i.e. before the initiation of meeting proceedings.	-

Additional Comments of India ICC					
Questions	**Provision as per Companies Act, 2013/Companies Rules**	**Provision as per SEBI Securities Contracts (Regulation) (SECC) Regulations, 2018**	**Provision as perIFSCA (MII) Regulations, 2021**	**Suggested Answers**	**Rationale**
Should the regulations mandate at least two-third of the total members of the Governing Board to be the Public Interest Directors/Independent Directors?	As per rule 4 of (Appointment and Qualification of Directors) Rules, 2014,public companies with specified limits as on the last date of latest audited financial statements mentioned below shall also have at least 2 directors as independentdirectors.	As per regulation 23 (3)of Securities Contracts (Regulation) (SECC) Regulations, 2018): The number of public interest directors shall not be lesser than the number of non-independent directors on the governing board of recognised stock exchange.	Regulat ion 24(2)(b): The number of public interest directors shall not be less than the number of shareholder Directors.	It is suggested that the regulations may not mandate that at least two-third of total members of the Governing Board to be the Public Interest Directors/Independe nt Directors.	iii. Since the exemption is already given to the IFSC companies vide MCA notification dated 4thJanuary, 2017 and to keep inline with the SEBISecurities Contracts (Regulation) (SECC)Regulations, 2018). iv. Further, as per the existing IFSCA (MII) Regulations, 2021, the Chairman is required to be appointed out of the PIDs only hence the decision making power will always remain withthe PIDs only.

Whether Managing Director of an MII should be classified as a shareholder director?	Section 2(54): "Managing director"means a director who, byvirtue of the articles of acompany or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.	Regulation 23(4): The managing director shall be included in the category of non-independent director.	Regulation 24(1)(c) The mana gingdirector shall be included in the category of shareholder directors	It is proposed that the existing clause may remain without any modification and hence it is suggested that the managing director may be continue to classified as a shareholder director.	To keep in line with the SEBI Securities Contracts (Regulation) (SECC) Regulations, 2018).
Whether the approval of shareholders should be mandatory for appointment of a Public InterestDirector?	Section 150(2): 2) The appointment of independent directorshall be approved by the company in general meeting as provided in sub-section (2) of section 152 and the explanatory statement annexed to the notice of the generalmeeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment as independent director.	Regulation 24(2): The public interest directors on thegoverning board of the recognised stock exchange(s) and the recognised clearing corporation(s) shall be 55[appointed with the prior approval of]the Board.	The appointment of directors of a recognised market infrastructure institution shall be subject to the prior approval of theAuthority and the fulfilment of other requirements as may be specified by the Authority.	It is suggested that the approval of shareholders may not be mandatorily required for appointment of a Public Interest Director.	While PIDs in MIIs can be considered similar to independent directors in a company, their role includesto look after the interest of the investing public. This element of difference shall be considered for MIIs, as they are public utility infrastructure institutionsand have been kept on a higher pedestal than other companies. IFSCA as the regulatory body under thestatute is vested withadequate powers and can exercise oversight in respect of operations of an MII, including approval of appointment of directors in MIIs whether PID or Shareholder directors, to ensure that the interest of all stakeholders areprotected. Further, as per Regulation 24 (2) of SEBI

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34	-	18(2)	Existing regulations provide that any other person in India, an IFSC or a Foreign Jurisdiction shall not at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than twenty-five per cent. of the paid-up equity share capital in the recognised depository. However, it is proposed that any person who meets the fit and proper criteria, as prescribed under IFSCA regulations, be allowed to hold a minimum 10% of the capital which may enhance market participation and ensure diverse interests.	The restriction that no single new investor can hold more than 25% may further hinder the ability to attract large investors. Investors looking to make substantial investments often aim for significant control or influence over the company, and being limited to a 25% cap could deter them. Therefore, while the flexibility to form joint ventures is a step forward, these shareholding restrictions may lead to complications in raising necessary funds, especially from large-scale investors, thereby affecting the company's ability to sustain its operations and growth.	
35		Regulation 24 (2) (f): Governance norms	An exception of carving out for the officials of scheduled commercial Banks (SCB) and Public Financial Institutions (PFI) to nominate their officials on the governing board of an MII. The IFSC Jurisdiction includes foreign banks, thus not only SCBs and PFIs, but also all banks functioning as broker-dealers, clearing members, or depository participants with a stake in Market Infrastructure Institutions (MIIs), may be considered to allow to	Given that the IFSC jurisdiction also includes foreign banks operating as broker-dealers, clearing members, or depository participants, it is recommended that this exception not be limited to SCBs and PFIs alone. Instead, it should extend to all banks, including foreign entities with a significant operational role in MIIs. This would ensure a more inclusive representation of key market participants and enhance the alignment of financial institutions with the strategic and operational objectives of MIIs.	

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			nominate their representatives to the governing board of an MII.	By expanding the eligibility criteria for nomination, the governing boards of MIIs will benefit from broader expertise, diverse perspectives, and enhanced oversight from institutions with a direct stake in the functioning and integrity of the financial markets. This can contribute to improved decision-making processes, governance, and overall market development.	
36		24(2)(h)	To align more effectively with best practices observed in corporate governance, we propose that the PID shall be eligible to be nominated for two terms of five years each. Further, by setting two terms of five years each, the MII can leverage the experience and contributions of PIDs over a sustained period which allows PIDs to have a meaningful impact through their roles. This proposal will further allow PIDs to establish and implement long - term strategic goals that foster effective oversight and governance. Additionally, we recommend reconsidering the age cap of 75 years, as it may limit the MII's access to valuable expertise, experience, and exceptional leadership. Therefore, we suggest that any appointment beyond	Extending the tenure of Independent Directors to two terms of five years enhances stability and continuity while allowing access to specialized expertise crucial for effective governance. Requiring shareholder approval for appointments beyond age 75 ensures accountability, providing flexibility to leverage experienced leaders when necessary.	

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			the age of 75 should require prior approval from the MII's shareholders. We anticipate that some flexibility in the prescribed term and age limits may be necessary.		
37	4	26	It is proposed that the investment-related matters can be taken care by the Audit Committee and should not necessarily require MII to have a separate Investment Committee. This approach simplifies governance, reduces costs, and ensures investment decisions are made within the context of the company's overall financial health and strategy.	The requirement to constitute an Investment Committee for MIIs in addition to the other committees like the Audit Committee, adds an extra layer of governance specifically focused on investments. However, given that the terms of reference for this committee are still awaited, and the management's view that investment matters could be handled by the Audit Committee in alignment with the company's financial strategy as the audit committee has deep and broad understanding of the company's overall financial position, strategy, and risk management. Also, its primary role is to oversee financial reporting, internal controls, compliance, and risk management and the investment decisions are inherently tied to financial strategy, risk, and reporting, the Audit Committee is well-positioned to evaluate these decisions within the larger financial framework. Thus, it may be considered that investment-related matters can be taken care by the Audit Committee and should not	

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				necessarily require MII to have a separate Investment Committee. The proposal to have the Audit Committee handle investment decisions instead of forming a separate Investment Committee is both logical and efficient. This approach simplifies governance, reduces costs, and ensures investment decisions are made within the context of the company's overall financial health and strategy.	
38		27	Regarding the segregation of departmental functions, we fully agree that it is essential to avoid conflicts of interest between business development and regulatory/compliance functions, ensuring the integrity of our operations. However, the requirement for complete ring-fencing of these functions is not feasible at this stage due to our current operational capacity and the limited office infrastructure available within the IFSC area. Enforcing strict functional segregation now could pose significant operational and financial challenges, as our business is still developing and has not yet achieved full-scale operations. Immediate implementation may necessitate	Complete ring-fencing of departmental functions is not feasible at this stage due to limited office infrastructure in the IFSC area and our ongoing development. Enforcing strict segregation could strain our financial resources and disrupt operations, making a phased approach necessary to ensure effective compliance while maintaining operational integrity.	

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			additional staffing and resources, straining our financial base. We assure you that our phased approach will not compromise the confidentiality or integrity of the information managed within our departments, and we remain committed to maintaining high standards of compliance and governance throughout this process.		
39		44	The amendment enhances the scope of securities which can be dematerialized by the depository, however, restricts scope only to securities and financial products defined under SCRA and IFSCA Act. Being a Depository in an overseas financial centre, Depository should also be permitted to enable holding of securities which are admitted into other Depository or a CSD (Central Securities Depository) by establishing a link with other Depositories / CSDs. The proposed amendment is as below : All securities defined under the SCRA and financial products defined under IFSCA Act shall be eligible for being	Being a Depository in an overseas financial centre depository should also be permitted to enable the holding of securities which are admitted into other Depositories or a CSD (Central Securities Depository) by establishing a link with other Depositories / CSDs. It may be noted that Depository / CSD regulations of all the prominent Financial Centres have enabling regulations for establishing linkages by Depository with other Depositories / CSDs. Some of the examples of such jurisdictions and regulations are given below. **Dubai international Financial Services Centre (DIFC) –** Dubai Financial Services Authority Rule Book – Conduct of Business Module – CSD Links – Clause No. 10.2.2 **Singapore –** Monetary Authority of Singapore – Securities Future Act (Cap.289)- Notice on Financial Market Infrastructure	

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			held in dematerialised form in a recognised depository. A recognized Depository may establish a link with Depository /Centralized Securities Depository (CSD) in other jurisdictions for enabling holding of securities admitted in depositories / CSDs by it's account holders subject to prior permission of the Authority before establishing such link.	Standards for Central Securities Depositories -CSD Links – Clause 3.20 **Hong Kong** – Hong Kong Securities Clearing Company Limited (HKSCC) - Clause 821 – Custodian Services in relation to Foreign Securities. **European Union –** European Securities and Market Authority (ESMA) – CSDR Regulations – Article 48 – CSD Links.	
40		63, A,B,C	We recognize the importance of appointing key management personnel (KMPs) such as a Chief Risk Officer, Chief Legal Officer, and Chief Information Security Officer. However, given our current stage of development and the challenges associated with establishing full-scale operations, appointing these roles separately is not feasible. This would require additional staffing and resources, potentially straining our financial base. As a solution, we propose to combine the roles of Compliance Officer and Chief Legal Officer into one position, merging the Chief Information Security Officer (CISO) with the Chief Technology Officer (CTO), and integrating the Chief Risk Officer role with another key management	This proposal to combine key management roles allows us to address critical compliance and security needs while remaining responsive to our current operational and financial constraints. By streamlining these positions, we can optimize resource allocation and maintain effective governance without overwhelming our developing infrastructure.	

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			position for the time being. This phased approach will enable us to address compliance and security needs effectively while managing operational and financial pressures		

I. Should the regulations mandate at least two-third of the total members of the Governing Board to be the Public Interest Directors/Independent Directors?

Given that India International Depository IFSC Limited ("IIDI" or "the Company") currently has 6 shareholder directors, achieving compliance with the proposed regulation requiring that 2/3 of the board be Public Interest Directors (PIDs) / Independent Directors (IDs) presents a substantial challenge. To meet this requirement, the total number of directors would need to be significantly increased. Specifically, to adhere to the 2/3 ratio, the board would need to expand to 18 directors, with 12 being PIDs/IDs.

Moreover, there is no international precedent or evidence suggesting that increasing the number of PIDs/IDs directly leads to improved governance. Such an increase could potentially result in larger governing boards, which may not necessarily enhance effectiveness.

Additionally, under Section 149(1) of the Companies Act, the maximum number of directors permitted on a board is fifteen. Should the company wish to appoint more than 15 directors, it would need to obtain approval through a special resolution at a shareholders' meeting. Given this regulatory cap, it is practically infeasible for the company to achieve compliance with the proposed 2/3 ratio of Public Interest Directors / Independent Directors.

II. Whether Managing Director of an MII should be classified as a shareholder director?

The term "Shareholder Director" (SHD) has become less relevant in its historical context, as the roles and responsibilities associated with it are not specific to any particular shareholder. To address this issue, we propose replacing "Shareholder Director" with "Non-Independent Director" (NID) in the regulations.

Under the revised categorization, the directors of Market Infrastructure Institutions (MIIs) would be classified as follows:

1. Public Interest Directors (PID) / Independent Directors (IDs)
2. Non-Independent Directors (NIDs)
3. Managing Director (MD)

NIDs would encompass nominees of shareholders and executive directors, excluding the Managing Director.

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The role of the Managing Director does not fit within the categories of NIDs or Public Interest Directors. According to Regulation 23(5) of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, the Managing Director is designated as an ex-officio director on the governing board and is explicitly excluded from being classified as either a public interest director or a shareholder director.

In light of this regulatory framework, it is fitting to apply a similar classification to the Managing Director under MII regulations. The Managing Director's role is crucial for the board's functioning but does not align with the NID or Public Interest Director categories. Therefore, maintaining a distinct classification for the Managing Director ensures clarity and compliance with regulatory standards.

III. Whether the approval of shareholders should be mandatory for appointment of a Public Interest Director?

The appointment of a Public Interest Director (PID) should not necessarily require mandatory approval by shareholders, given the current multi-tiered approval process in place.

Currently, the process for appointing any board members, including Public Interest Directors, involves several stages of approval:

1. ***Nomination and Remuneration Committee (NRC) Review**: The NRC Committee evaluates and recommends to the governing board, the candidates for the role of Public Interest Director.*

2. ***Governing Board Approval**: Based on the NRC Committee's recommendation, the governing board approves the appointment, subject to the approval of the International Financial Services Centres Authority (IFSCA).*

3. ***Board Composition**: The board, which includes shareholder directors and the PID, ensures appropriate shareholder representation in appointment process of directors.*

4. *Additionally, the requirement for prior approval by IFSCA ensures that the appointment of a PID aligns with regulatory standards and criteria, adding an extra layer of scrutiny to the process.*

Furthermore, under Section 162(1) of the Companies Act, the governing board has the authority to appoint an Additional Director at any time. This director holds office until the date of the next Annual General Meeting (AGM) or the last date by which the AGM should have been held, whichever is earlier. However, it is important to note that an Additional Director appointed under Section 161 is required to be presented to the shareholders at the ensuing AGM to have their appointment regularized.

Given these procedural safeguards and the statutory powers vested in the board, requiring additional shareholder approval for the appointment of a PID may not be necessary. The existing process provides a robust framework for the appointment of directors, ensuring that the interests of shareholders are adequately represented and protected.

Corporate Governance arrangements of the MIIs	Comments/Suggestion / Proposed amendment	Detailed Rationale
Should the regulations mandate at least two-third of the total members of the Governing Board to be the Public Interest Directors/Independent Directors?	It is suggested to have 50 percent of the total numbers of Governing Board to be the public Interest Directors/Independent Directors.	To align it with the SEBI Corporate Governance norms and for better governance of MIIs.
Whether Managing Director of an MII should be classified as a shareholder director?	The Manging Director of an MII should not be classified as shareholder director.	The role and responsibilities of a Managing Director is onerous and demands a position who is entrusted with a day-to-day management and affairs. Therefore, the same is suggested.
Whether the approval of shareholders should be mandatory for appointment of a Public Interest Director?	It is suggested to go with the extant method of appointing Public Interest Director.	The MIIs are on the higher pedestal than other companies in terms of appointment of PIDs.
Vertical 2: Regulatory, Compliance, Risk Management and Investor Grievance	It is suggested to appoint a Company Secretary as Compliance Officer for vertical 2.	As a company secretary has the core compliance management competence and substantial experience it is suggested.