



Circular

F. No. IFSCA-LPRA/11/2024-Legal and Regulatory Affairs

December 02, 2024

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

- a) Considering the legal and regulatory framework associated with the financial services market in International Financial Services Centre (IFSC) is unique, therefore on occasions, financial institutions, persons intending to set up a Unit in IFSC, amongst others may encounter certain issues and challenges in interpreting legal and regulatory provisions.
- b) In order to address the same, the International Financial Services Centre Authority (IFSCA) hereby issues the 'International Financial Services Centre Authority (Informal Guidance) Scheme, 2024' (Scheme) to provide a mechanism for seeking clarity and guidance *inter-alia* on various issues pertaining to potential business activity and transactions, which are under the regulatory ambit of the IFSCA and on other legal issues emanating from the acts administered by IFSCA.

1.0 Objective

In order to effectively execute business decisions and transactions within the financial services market, it is essential to have clarity and guidance on the extant regulatory framework for making informed and compliant decisions, in order to facilitate the same, IFSCA hereby issues the said Scheme.

2.0 Definitions

For the purposes of this Scheme, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them, and their cognate expressions and variations shall be construed accordingly:

- (a) 'Act' means the International Financial Services Centres Authority Act, 2019 (50 of 2019);



- (b) 'Authority' means the International Financial Services Centres Authority established under section 4 of the Act;
- (c) 'Department' means a department of the Authority;
- (d) 'Scheme' means the International Financial Services Centres Authority (Informal Guidance) Scheme, 2024.

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

3.0 Applicability and Eligibility

3.1. The Scheme shall come into force with effect from January 01, 2025.

3.2. The following persons are eligible to submit a written request (Application) seeking Informal Guidance under the Scheme:

- (a) a person licensed, registered, recognised or authorised by the Authority;
- (b) a person intending to undertake a business transaction in relation to financial product(s) or financial service(s) regulated by the Authority;
- (c) a person desirous of setting up a Unit in IFSC; and
- (d) such other person as may be specified/permitted by the Authority.

4.0 Types of Informal Guidance

Informal Guidance may be sought in the following manners:

4.1 **No-Action Letters:** In this form, the Department may indicate whether it would or would not recommend any action to the Authority, under any Act and/or Rules, Regulations, Guidelines, Circulars administered by the Authority, if the proposed activity/ business/ transaction described in the request made under clause 5.0 herein is consummated.

4.2 **Interpretive Letters:** In this form, the Department may provide an interpretation of:

- (a) specific provision of the Act, Rules, Regulations, Guidelines or Circulars being



- administered by the Authority;
- (b) Circulars, Guidelines or directions issued by RBI, SEBI, IRDAI and PFRDA prior to the establishment of the Authority and are presently being administered by the Authority; or
 - (c) other legal provisions of any act, Rules, Regulations, Guidelines or Circulars being administered by the Authority, in the context of a proposed activity/ business/ transaction related to a financial product (s) or financial service (s) or in a specific factual situation.

5.0 Application for seeking Informal Guidance

5.1. The Application seeking Informal Guidance shall be made in the following manner:

- (a) The Application shall be filed electronically through the Single Window IT System (SWITS) of the Authority.
Provided that the application seeking Informal Guidance shall be filed through an e-mail addressed to the nodal co-ordination cell of the Authority at igdesk@ifsc.gov.in, until such filing of application is enabled under the Single Window IT System (SWITS);
- (b) The Application shall state that it is being made under the International Financial Services Centres Authority (Informal Guidance) Scheme 2024 and also as to whether the Application is made for ‘no-action letter’ or ‘interpretive letter’;
- (c) The Application, if sent through email as per proviso to clause 5.1(a), shall be accompanied by a fee of USD 1000 by way of direct credit into the following bank account of the Authority through SWIFT or any other mode as may be specified by the Authority from time to time. Confirmation of such payments shall be sent to the nodal co-ordination cell e-mail. Out of the total fees paid for request, 75% of it shall be charged as guidance fees and the remaining 25% will be charged as processing fees;



Account Name: International Financial Services Centres Authority

Account Number: 970105000174

Type of Account: USD Current Account

Bank Name: ICICI Bank Limited

SWIFT Code: ICICINAAXXX

NOSTRO Details: CHASUS33XXX

JP MORGAN CHASE BANK NA, NEWYORK, USA

Account no: 833999532

- (d) The Application shall disclose and analyse all relevant and material facts and circumstances involved, along with all relevant and applicable legal provisions, in the application;
- (e) The Application shall clearly demonstrate the link between the guidance sought/question asked and the current or proposed activity of the applicant in the IFSC, as applicable.

5.2. On receipt of the Application under clause 5.1, the concerned Department shall examine the application and may, if felt necessary, through electronic mail, ask the Applicant to submit additional information/clarification in order to obtain clarity on the matter.

5.3. The applicant shall respond to such communication from the Department within 15 days or within such additional time as may be permitted by the Department at the request of the Applicant. In case, no response is received within the specified time, the Application shall be liable to be rejected by the said Department. The internal records or views of the Department shall be confidential.

5.4. Endeavor shall be made by the Department to dispose of the Application at the earliest and no later than 30 days from receipt of the Application. The time taken by the Applicant in responding to the information/clarifications sought by the Department shall be excluded while calculating the aforesaid timeline.



6.0 Request for Guidance which may not be entertained by the Departments

6.1 The Departments may not entertain applications seeking Informal Guidance where –

- (a) the guidance sought/query is general in nature and the application does not completely and sufficiently disclose the factual situation;
- (b) the guidance sought is based on hypothetical situations;
- (c) the applicant has no direct or proximate interest;
- (d) the applicable legal provisions are not cited;
- (e) a no-action or interpretive letter has already been issued by any Department of IFSCA on a substantially similar question involving substantially similar facts, as that to which the request relates;
- (f) the investigation, enquiry or other enforcement action has already been initiated in the said case;
- (g) the connected issues are pending before any Court or Tribunal and the issue is *sub-judice*;
- (h) policy concerns require that the Department does not respond to the query; and
- (i) in such other cases as the Department deems fit.

6.2 Where the request for guidance is not in accordance with 4, 5, and 6.1, the fee paid by the applicant shall be refunded after deducting processing fee.

7.0 Dissemination of the Guidance issued on Authority's website and Confidentiality

All the guidance issued under this Scheme shall be uploaded on the website of the Authority;

Provided that where the applicant specifically requests to maintain confidentiality on the grounds of sensitivity of proposed business decisions and transactions, the concerned Department shall give confidential treatment for a period of 90 days from the date of issuance of guidance. Further, on the specific request from the Applicant, the Department shall redact the names or any other specified details from the guidance issued, before uploading the same on Authority's website.



8.0 No recourse and Non-Binding nature of Informal Guidance

8.1. The letter issued by the Department under this Scheme shall not:

- (a) be construed as a conclusive decision or determination of any question of law or fact by the Authority;
- (b) be construed as an order of the Authority; and
- (c) be appealable.

8.2. The Authority shall not be liable for any loss or damage that the Applicant or any other person may suffer on account of the request not being answered or being belatedly answered or the Authority taking a different view from that taken in a letter already issued under this Scheme.

8.3. It may distinctively be understood that a No-Action Letter or an Interpretive Letter issued by a Department constitutes the view of the Department and shall not be binding on the Authority. However, the Authority may generally act in accordance with such letter.

9.0 Actions against guidance obtained by way of unlawful means

Where the Department finds that guidance issued by it under this Scheme has been obtained by the Applicant by fraud or misrepresentation of facts, notwithstanding any legal action that the Department may take, it may declare such guidance to be *non-est* and thereupon the case of the Applicant will be dealt with, as if such guidance had never been rendered.

10.0 Miscellaneous

10.1 The guidance offered by the Department is conditional upon the Applicant, acting strictly in accordance with the facts and representations mentioned in the Application.

10.2. The Authority may specify the mode, manner and format for submission of the



Application and any other matters incidental to the Scheme.

- 10.3. This Circular is issued in exercise of powers conferred by Section 12 and 13 of the International Financial Services Centres Authority Act, 2019 and shall come into force with effect from January 01, 2025.
- 10.4. A copy of this circular is available on the website of the International Financial Services Centres Authority at www.ifsc.gov.in

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