Report of the Working Group For Development of Non-Resident Individuals Business and Ease of Registration

Contents

Abbreviations

Abbreviation	Full Form
AIF	Alternative Investment Fund
AMC	Asset Management Company
AML	Anti-Money Laundering
CBDT	Central Board of Direct Taxes
CDD	Customer Due Diligence
CFT	Countering the Financing of Terrorisms
CIP	Customer Identification Programs
CKYCR	Central Know Your Customer Register
DFSA	Dubai Financial Services Authority
DIFC	Dubai International Financial Centre
DSC	Digital Signature Certificate
EBA	European Banking Authority
e-PAN	Electronic Permanent Account Number
ESG	Environmental, Social and Governance
EU	European Union
FATF	Financial Action Task Force
FIF	Family Investment Fund
FM	Fund Management
FME	Fund Management Entities
FPI	Foreign Portfolio Investment
FSP	Financial Service Providers
FX	Foreign Exchange
GIFT	Gujarat International Finance Tec-City
GPS	Global Positioning System
HKMA	Hong Kong Monetary Authority
HSBC	Hongkong and Shanghai Banking Corporation
IBU	IFSC Banking Unit
IFC	International Financial Centres
IFSC	International Financial Services Centre
IFSCA	International Financial Services Centres Authority
IIBX	India International Bullion Exchange (IFSC) Limited
IIO	International Financial Service Centre Insurance Office
INR	Indian Rupee
InvIT	Infrastructure Investment Trust
INX	India International Exchange
IRDAI	Insurance Regulatory and Development Authority of India
IT	Information Technology
ITA	Income Tax Act
KYC	Know Your Customer
LBMA	London Bullion Market Association
LLP	Limited Liability Partnership
LSE	London Stock Exchange
MAS	Monetary Authority of Singapore
NASDAQ	National Association of Securities Dealers Automated Quotations
NFTF	Non-face to face

NR	Non-Resident
NRI	Non-Resident Indian
NSE	National Stock Exchange
NSE IFSC	NSE International Exchange
NYSE	New York Stock Exchange
OBU	Offshore Banking Unit
ODI	Offshore derivative instrument
OVD	Official Valid Document
PAN	Permanent Account Number
PE	Private Equity
PIO	Person of Indian Origin
PSO	Payment System Operation
RBI	Reserve Bank of India
RE	Regulated Entities / Financial Service Providers
REIT	Real Estate Investment Funds
SBI	State Bank of India
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SGX	Singapore Exchange
SME	Small - Medium Enterprise
TDS	Tax Deducted at Source
TF	Terrorist Financing
UAE	United Arab Emirates
UN	United Nations
UPI	Unified Payments Interface
USD	United States Dollar
V-CIP	Video-Customer Identification Process

Foreword

India's diaspora has created large wealth overseas which is important for the nation's economic landscape. With over 32 million NRIs residing outside India, their impact is both noticeable and significant. As per the Migration data portal, in 2023, India was amongst the top-five recipient countries for remittances inflows among low-and middle-income countries with a surge in foreign inward remittances, of $125 billion.[1] With outstanding NRI deposits reaching a total of $147.732 million by the close of January, 2024.[2] This robust financial inflow reflects not only the economic contributions of the Indian diaspora but also their unwavering trust in the Indian market. NRI participation in India not only directly contributes to the growth of the Indian economy, but also services to foster creditability and confidence on the global stage, thereby also attracting NR investments into India.

Entities setup in GIFT IFSC are considered as persons resident outside India under the Foreign Exchange Management Act, of 1999, thereby uniquely positioning GIFT IFSC as an inbound and outbound gateway for investments into and outside of India. Recognizing its potential and taking into consideration the need to develop Non-Resident (NR) and Non-Resident Indian (NRI) individual businesses in GIFT IFSC, the International Financial Services Centres Authority (IFSCA) has constituted this Working Group dedicated to the development of NR and NRI business in GIFT IFSC. Its constituent members include experts from the regulators, experts from industry, financial institutions and legal experts as set out in Annexure 3 of this report.

Working towards the fulfilment of its objectives, the report outlines a comprehensive agenda for increasing participation and growth of NRs and NRIs in GIFT IFSC, in line with benchmarks set by five of the world's most competitive International Financial Centres (IFCs) – New York, London, Singapore, DIFC and Luxembourg. The report includes both recommendations with respect to specific financial products and services offered in GIFT IFSC, as well as suggestions for more flexible onboarding procedures, such as the introduction of digital onboarding, to facilitate greater involvement of NR and NRI participation in GIFT IFSC.

This report, structured into chapters to provide a comprehensive understanding, delves into the global context, benchmarking against leading IFCs and a detailed examination of the products and services offered in GIFT IFSC. It also scrutinizes the onboarding processes for NR and NRI, identifying best practices and regulatory requirements followed globally. The recommendations derived from this thorough analysis aim to foster greater participation from NR and NRI communities in GIFT IFSC.

As we stand at the intersection of global financial dynamics and India's vision to become a 5 trillion-dollar economy, this report serves as a beacon, guiding stakeholders towards a future where NR and NRI businesses flourish in GIFT IFSC. The insights presented herein, rooted in meticulous research and several conversations with multiple industry experts as set out in Annexure 2 and 3 of this report , are intended to contribute to the realization of India's vision of positioning India's IFSC as an international financial hub.

[1] For more details refer to: https://www.migrationdataportal.org/themes/remittances
[2] RBI bulletin dated June, 2023. External Sector, Entry No. 33- NRI Deposits, available at: https://www.rbi.org.in/Scripts/BS_ViewBulletin.aspx?Id=22492

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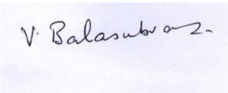

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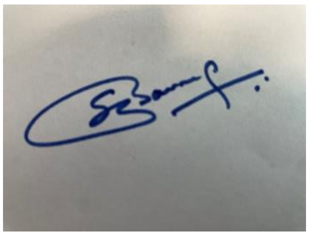

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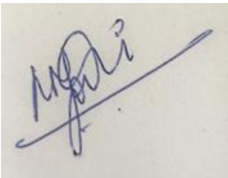

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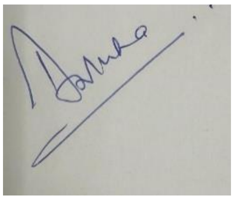

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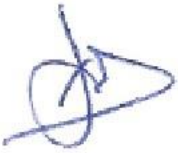

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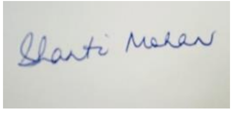

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Acknowledgement

The Working Group would like to convey its deep gratitude to all the stakeholders and industry experts for providing their valuable inputs, suggestions and sharing their insights at short notice which helped in timely completion of the report.

The Working Group would like to thank Mr. Himanshu Jain, Assistant General Manager, IFSCA for providing extensive support in the effective functioning of the working group. Further, the working group would like to thank Mr. K Kundan Krishna, Manager, IFSCA for providing valuable inputs and ensuring robust coordination with various stakeholders to assist the working group. The working group also acknowledges the contribution of Mr. Gaurav Dimri, Assistant Manager, and Mr. Jatin Ahuja, Assistant Manager, from IFSCA for effective communication with various stakeholders, timely organizing meetings and assistance in drafting the report.

The Working Group also expresses its sincere appreciation to Ms. Radhika Parikh, Ms. Faiza Khanum, Ms. Sehar Sharma and Ms. Avani Maheshwari from Nishith Desai Associates and Mr. Anit Hake from ICICI Bank for undertaking extensive research, actively contributing in the meetings and providing quality support to the working group in the drafting of this report.

Further, the Working Group would also like to thank Mr. Rahul Prasad, CEO, HDFC International Life and Re Company Limited, Mr. Manoj Prajapati, Head of Sales – South Asia, Allfunds, Ms. Deepthi Sirvuri, Business Head – International, HSBC Bank, and Mr. Vishal Sharma, Compliance & Money Laundering Reporting Officer (MLRO), Ascent Fund Services for sharing their experiences, providing their ideas and valuable inputs towards drafting this report.

The Working Group expresses its gratitude to the subject matter experts of the organizations represented by the members of the working group for providing significant support towards preparation of the report.

The Working Group extends its immense gratitude to all the stakeholders and industry experts, who are recalled in Annexure 2 of the report, for assisting the working group in understanding the global markets and the best practices followed in other international financial centres by providing written inputs, supplemented by discussions and clarifications on various aspects of onboarding and ease of doing business in GIFT IFSC.

The Working Group places on record its gratitude to Shri K. Rajaraman, Chairperson, IFSCA for providing an opportunity to the group to dwell on this important subject and for providing valuable guidance to the Working Group.

Executive Summary

The strategic establishment of GIFT IFSC as India's first IFSC in 2015 has laid the foundation for unlocking numerous opportunities in the development of NR and NRI businesses in India. The Government of India's policy initiative is to bring in the international financial services businesses from IFSC to India by providing required regulatory and business enablers along with the ease of doing business processes.

Recognizing the distinctive investment patterns of NRIs, who often prefer to invest in the currency of their country of residence or the globally favoured USD, GIFT IFSC emerges as a pivotal link for Indians residing overseas. The IFSC, plays a dual role as a financial hub, facilitating NRIs' investments in global markets and offering a seamless platform for investments in non-INR denominated securities like Offshore Bonds, Mutual Funds and Structured Notes.

This Working Group conducted a comprehensive global benchmarking exercise against leading IFCs, including New York, London, Luxembourg, Dubai, and Singapore. This exercise formed the basis for understanding the strengths and weaknesses of GIFT IFSC, leading to the identification of key challenges and opportunities.

The report starts with a context-setting chapter highlighting the importance of NR and NRI investment in India along with the significance of global benchmarking. It further explores GIFT IFSC's purpose, emphasizing the active role of NR / NRI in the development of economies. The importance of developing NR and NRI businesses in GIFT IFSC is examined, with a focus on potential benefits and opportunities for growth in the sectors of banking, insurance, asset management (funds) and capital markets.

The global benchmarking chapter provides a detailed analysis of NR products available in identified jurisdictions, studying various financial products and services available in New York, London, Luxembourg, Dubai and Singapore. The subsequent chapters conduct a comprehensive study of financial products available for NR and NRI in GIFT IFSC, comparing them with other IFCs.

The onboarding process for NR and NRI is examined in detail in Chapter 4, covering various aspects such as customer identification, authentication and execution of documents. Chapter 4 covers in detail the regulatory and compliance requirements influencing onboarding processes, along with a comparative analysis of onboarding practices in other IFCs. By drawing inspiration from successful IFCs, the report envisions harnessing the full potential of GIFT IFSC to attract NR and NRI investments, especially those wanting to invest in or from their home countries.

The report aims to provide a strategic roadmap for the development of NR and NRI business in GIFT IFSC, emphasizing ease of onboarding and positioning GIFT IFSC as a global financial hub.

General terms of reference of this Working Group as mentioned in the press release issued by IFSCA on October 6, 2023 (attached as Annexure 3) are as follows-

i. To undertake Global benchmarking of 3 financial centres with larger Non-Resident Individual businesses.
ii. To provide suggestions to develop Non-Resident Individual (both Indian and Foreign) Businesses in GIFT IFSC.

iii. To study the ease of registration in the identified global centres including digital onboarding processes along with risk mitigation measures.

iv. To suggest measures for the Ease of Registration of Non-Resident Individuals, including physical and digital onboarding, and related processes from the ease of investing through IFSC in India and Overseas.

v. Any other suggestions directly/indirectly linked to the mandate of the Working Group

Summary of Recommendations

S.No.	Heading	Issue	Recommendation	Authority
Insurance Sector				
1.	Tax exemption for income from Insurance Policies	No tax exemption for NR and NRI investors investing in insurance products in GIFT IFSC.	CBDT to extend tax exemption to NR / NRI for income earned from all insurance policies issued by IIOs at GIFT IFSC. A notification listing applicable policies for exemption may be issued.	CBDT
Capital Market				
2.	Tax exemption on dividend income	No tax exemption for dividends from listed securities received by NRs.	Exempt tax / withholding on dividends received by NR and NRI in relation to securities listed on an IFSC exchange.	CBDT
Funds				
3.	Minimum corpus to start a Restricted Scheme Non-Retail investing in only listed securities	The current requirement under Regulation 35 of IFSCA (Fund Management) Regulations, 2022 (FM Regulations), requires all Restricted Scheme Non-Retail to have a corpus of USD 5 million before the scheme can start investing, causing delays in deploying funds and missed market opportunities for investors.	• IFSCA to amend Regulation 35 of the FM Regulations to permit funds with a strategy of investing in listed securities without the minimum corpus requirement. • Alternatively, allow the fund managers to wind up the fund in case they do not meet the minimum threshold criteria within six months.	IFSCA
4.	Taxation of Family Investment Fund (FIF)	The taxation of FIFs in the GIFT IFSC is currently determined by their legal structure (trust, LLP, or company) rather than their investment strategy, unlike other non-retail funds located in the GIFT IFSC.	IFSCA to amend FM Regulations to allow FIFs to obtain registration / certificate under sub-category of Category I, II, or III AIF based on their investment strategy.	IFSCA
5.	Classification of income between "Income from Business" and "Capital Gains"	Ambiguity in the taxation of income from the sale of securities by investment funds in IFSC, leading to uncertainty as to whether such income should be taxed as capital gains or business income.	CBDT to amend Section 2(14) of the Income Tax Act, 1961, (ie. definition of capital asset) to explicitly include securities held by Investment Funds registered with IFSCA.	CBDT

6.	Retail Scheme Taxation	Inconsistencies and uncertainties in the current taxation framework for Retail Schemes registered with IFSCA, leading to potential double taxation concerns.	• Amend the definition of "Specified fund" under the Income Tax Act, 1961, to include Retail Schemes, ensuring taxation parity with Category III AIFs and providing specific exemptions for non-resident unit holders under Section 10(23FBC) to prevent double taxation. • Alternatively, to streamline the taxation structure, focus should be made on having a single-tier taxation at the Scheme level while concurrently providing a specific exemption for unit holders and extending PAN relaxation to foreign unit holders in Retail Schemes. • The third alternative proposal includes aligning the taxation of Retail Schemes with SEBI-registered Mutual Funds. Allowing Retail Scheme to deduct tax at the time of distribution or redemption and at the same time exempting investors from obtaining PAN and filing income returns in India.	CBDT
General Recommendations				
7.	To organise Awareness and Outreach Programmes overseas as well as undertake coordinated effort to ensure that REs actively broaden their product and service offerings to NR and NRIs	Limited market penetration of certain financial products in GIFT IFSC due to lack of awareness and understanding of what the GIFT IFSC is.	• To promote and attract more investor pool and customers to GIFT IFSC, IFSCA should launch comprehensive awareness campaigns to inform and educate overseas investors on GIFT IFSC, in general. • To promote greater product / service offerings by GIFT IFSC entities: IFSCA should strategically and actively empower registered entities within GIFT IFSC to broaden their product and service offerings by: a) Issuing specific letters to these registered entities, providing detailed information on the array of products and services enabled within the GIFT IFSC; and b) Sending out a questionnaire to registered	IFSCA & Regulated Entities

			entities, seeking insights into the products and services currently offered, their plans for future offerings and any obstacles or challenges hindering the enablement of certain products and services.	
8.	Regulatory Framework in GIFT IFSC for Payment Gateway Operators	Lack of rules and regulations for retail payment operations, hindering the growth and scalability of financial transactions in GIFT IFSC.	To ensure seamless online transactions, a dedicated regulatory framework for both Indian and offshore payment gateway providers should be established to foster efficient transactions for all retail products and services available in GIFT IFSC.	IFSCA
9.	Passporting	Their exists regulatory regimes in various overseas jurisdictions which restrict cross-border marketing of investment products in such jurisdictions.	IFSCA to engage with ESMA to understand the factors and basis of selection for the extension of the EU Passporting regime and make steps towards the same. The precedence created by ESMA efforts must be explored by IFSCA for the benefit of the cross-border marketing of products and services offered by REs in GIFT IFSC.	IFSCA
10.	Dispute Resolution	Need for efficient dispute resolution mechanism	Establish specialized courts for fast-track, independent, digitally accessible and cost-effective dispute resolution.	IFSCA / Ministry of Law and Justice
Ease of Onboarding and KYC				
11.	Third-Party Attestation / Certification	Cumbersome Third-party attestation for OVDs where originals are not provided, leading to delays in account opening for NR and NRI investors.	IFSCA to amend Paragraph 4 of Part II of Annexure 1 of the AML Guidelines to provide exemption from third party attestation where the CDD documents are self-attested, coupled with funding confirmation.	IFSCA
12.	Permit Non- Face -To-Face (i.e. Digital) Onboarding of NR and NRI investors	Lack of Clarity and Guidance deters REs from undertaking digital onboarding for NR and NRI in GIFT IFSC, hindering accessibility for NR and NRI residing in different time zones.	• Annexure II of the AML Guidelines and Annexure 1 of PMLA Rules, 2005 should be amended to allow for digital / video KYCs for low and medium risk NRs and NRIs which do not require their physical presence in GIFT IFSC. This includes amending Annexure II of AML Guidelines to include geotagging for location confirmation of NR and NRIs outside India, and removal of V-CIP block for NR and NRIs onboarding, allowing secure video conferencing options. • IFSCA to implement clear	IFSCA / Department of Revenue, Government of India

			digital/NFTF CDD guidelines, incorporating data security measures and testing protocols. • IFSCA to categorize digital identity systems as standard or low risk for CDD, fostering confidence and efficiency in the digital onboarding process.	
13.	Onboarding Existing Customers	Currently GIFT IFSC RE is required to undertake its own CDD even in instances where the customer already has an account open with (i) another GIFT IFSC RE; (ii) the overseas branch / parent of the GIFT IFSC RE (due to lack of awareness); and / or (iii) the Indian branch/parent of the GIFT IFSC RE	• <u>Reliance on Indian or overseas parent / subsidiary branch of GIFT IFSC RE:</u> As per Clause 6.2 of the AML Guidelines, REs are permitted to rely on a third party to perform CDD measures, subject to the conditions specified therein. For this purpose, RE's branches, subsidiaries, parent entity and other related corporations (Related Entities") are considered to be third parties. However, it is not clear whether an overseas Related Entity is required to undertaken a fresh verification of CDD documents or whether the GIFT IFSC RE can open a new account based on the CDD undertaken by its Related Entity at the time the customer first opened his / her account with the overseas Related Entity. Accordingly, the Working Group recommends that IFSCA should issue clarification that no fresh CDD is required, and that so long as the information with the Related Entity is up to date (as per its own AML requirements) no further CDD needs to be undertaken for account opening by the GIFT IFSC RE. • <u>Reliance on Primary RE</u>**:** IFSCA to require each GIFT IFSC RE (Primary RE) to share verified KYC details of a customer which they have already onboarded with another GIFT IFSC RE ("Secondary RE") who intends to onboard the same customer, subject to such customer's consent. Accordingly, AML Guidelines should be amended to expand the definition of third-party reliance and IFSCA	IFSCA

			should issue a clarification that no further CDD needs to be undertaken by the Secondary RE. • GIFT IFSC Repository: For ease of onboarding of customer who have already been onboarded by other GIFT IFSC REs, a centralized KYC repository for GIFT IFSC should be created. Customer KYC details would be added to this repository with the consent of relevant customer. This would allow REs across all sectors to have access to verified KYC details, thereby eliminating the need for full-fledged CDD. • Link with CKYC: For ease of onboarding NRIs who already have accounts open in mainland India, IFSCA should tie up with CKYC to allow GIFT IFSC REs access to the verified KYC details of such NRIs.	
14.	Clarification with respect to valid digital signatures	There is a limited number of types of digital signatures accepted by REs located in the GIFT IFSC which hinders seamless onboarding of NR and NRI and increases time and resources in procuring physical signatures.	IFSCA to issue a clarification stating that third-party electronic signature service providers like DocuSign, Zoho, Adobe Sign are also recognized as valid for use in GIFT IFSC as long as they meet the criteria provided under section 11 of IT Act and Section 65B of Indian Evidence Act.	IFSCA
15.	Clarification with respect to requirement of Stamp Duty for onboarding of customers	Ambiguity and confusion regarding the requirement of stamp duty for onboarding of customers in the GIFT IFSC.	Gujarat Government and Ministry of Finance to issue relevant clarifications on the applicability of stamp duty for all instruments executed in the GIFT IFSC.	Department of Revenue, Government of India and Government of Gujrat

16.	Amendment of AML Guidelines to grant exemption from providing PAN	CBDT vide its notification dated October 10, 2023, has stated that a PAN is not a mandatory requirement for a non-resident seeking to invest in a fund in GIFT IFSC where the said non-resident has no other source of income from India, outside of the fund domiciled in GIFT IFSC, filing of Form 60 is also not required in such instances. However, Rule 9(4)(b) of the PMLA Rules require REs to obtain either PAN / Form 60 from their customers, thereby requiring a non-resident to obtain a PAN even in instances where they have no requirement to do so under the Income Tax Act, 1961.	Rule 9(14)(B) of the PMLA Rules should be amended such that the regulator is permitted to issue guidelines, which exempts customers who are not required to obtain a PAN pursuant to applicable Indian laws from obtaining a PAN and the same should be provided in the AML guidelines.	Department of Revenue, Government of India and IFSCA
17.	Expansion of OVDs	Limited flexibility for NR and NRIs in submitting identification and address proof documents under the AML Guidelines. While a broader set of documents is permitted for low-risk customers, the same are not permitted for medium-risk customers.	• Expand the list of acceptable OVDs for medium-risk customers under normal CDD to include documents allowed for low-risk customers in the Simplified CDD process. • Additionally, consider accepting Overseas Citizens of India cards and Overseas Rent Agreements as valid OVDs for low and medium-risk customers. • Establish procedures for regular assessment and revisions of the OVD list to adapt to legal changes, technological advancements and evolving NRI needs.	Department of Revenue, Government of India and IFSCA

CHAPTER 1: Introduction and Background

I. Introduction

Amidst India's bustling urban landscapes, Gujarat International Finance Tec-City (**"GIFT City"**) stands as a beacon of the nation's unyielding aspirations. More than just a financial hub, GIFT International Financial Services Centre (**"GIFT IFSC"**) is a testament to India's ambition to redefine its global economic stature. Nestled strategically between Ahmedabad and Gandhinagar, GIFT IFSC has emerged as a preferred international financial centre for investing into Indian and global investment opportunities, attracting global investors and igniting domestic growth. Its strategic placement and unique IFSC status have positioned it as a hub for global investors eyeing India's robust economic landscape.[3]

Established with a vision to consolidate and onshore the international financial business scattered across other financial hubs like London, Dubai and Singapore, GIFT IFSC strives to not only emulate international standards but surpass them. Augmented by robust infrastructure and streamlined logistics, GIFT IFSC emerges as a two-way gateway for global investors investing into India, and Indians investing globally.

At the core of GIFT City's appeal lies its recognition as an IFSC, providing globally benchmarked and competitive regulatory and taxation treatment in line with the global best practices.[4] This globally benchmarked business enablers empower GIFT IFSC to host various financial services activities, attracting businesses engaged in banking, insurance, asset management, capital markets and commodity exchange. The objective is to enhance accessibility to global financial products and services thereby catalysing investment and growth in the Indian economy.

Moreover, the Indian government's dedication to fostering a conducive business environment within the GIFT IFSC, which is also a Special Economic Zone (**"SEZ"**), offers a myriad of benefits and streamlined administrative procedures. These incentives, coupled with a regulatory framework aimed at facilitating offshore entity formation and international financial transactions further solidify GIFT IFSC's position as a cost-effective and efficient destination for global businesses seeking access to both Indian and global markets.[5]

Meticulously planned and developed, GIFT IFSC's infrastructure is aimed to cater to the diverse needs of businesses, residents and visitors alike. Supported by world-class infrastructure and progressive policies, GIFT IFSC stands as a frontrunner aspiring to become India's premier global financial and technological centre. The unwavering efforts of the Indian government, coupled with proactive policy initiatives, has been instrumental in propelling GIFT IFSC's growth trajectory.

While GIFT IFSC boasts existing legal, tax, regulatory and administrative efficiencies, further augmenting its appeal to NR and NRI requires enhancing accessibility to a wider range of global financial products and services. This expanded access will not only entice NRIs to invest in India but also make GIFT IFSC the premier destination for NR and NRI seeking diverse investment options across IFCs. Their capital infusions not only energize its financial activities but also elevate its international standing, attracting more

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[3] FAQ- GIFT IFSC, available at: https://giftsez.com/documents/FAQs-GIFT-IFSC-Latest.pdf.
[4] Ibid.
[5] FAQ on SEZ, available at: https://nsez.gov.in/Resources/SEZ%20FAQs.pdf.

global businesses and investors. Therefore, prioritizing measures that attract and retain NR and NRI businesses is crucial for GIFT IFSC's continued ascent. Tailored products streamlined regulations and competitive rates customized to NR and NRI needs form the bedrock of its strategy. This report serves as a strategic blueprint to foster the participation of NR and NRI businesses within GIFT IFSC.

The present report on the "Development of Non-Resident Individual Business and Ease of Registration" aims to provide a comprehensive understanding of the potential for developing NR and NRI participation in the GIFT IFSC. Such participation is key for enabling the GIFT IFSC to grow into a global destination for non-resident investors looking to participate in the financial products and services offered in the IFSC, as well as global businesses intending to access the global market by setting up a local presence in India. The report, taking lessons from successful global IFCs, aims to enable the Government of India's vision of making India a 5 trillion-dollar economy and a global powerhouse by 2025.[6]

II. GIFT IFSC: An Emerging International Financial Centre in India

Since its establishment in 2015, GIFT IFSC has rapidly emerged as a beacon of financial innovation, attracting both domestic and international financial giants and marking a new chapter in India's economic narrative. This initiative, backed by the government's vision and operationalized through a robust regulatory framework, aims to foster inbound and outbound international financial services, setting the stage for a gateway to the global economy.

In recent years, GIFT IFSC has undergone noteworthy expansion and diversification within its financial landscape. In the fiscal year 2022-23, the capital market in GIFT IFSC witnessed a remarkable upswing, with the turnover on the stock exchange increasing to USD 66734.99 Mn in December 2023.[7] In the terms of debt securities, the cumulative listings of all debt securities as on December 31, 2023 on IFSC exchanges reached a substantial USD 52.97 Bn.[8] The insurance sector also exhibited a positive growth with the registration of new (re)insurers and insurance brokers, contributing to a dynamic marketplace with 29 IFSC insurance offices and intermediary offices as of 31st December, 2023. Furthermore, with the total banking asset size of USD 51.98 Bn and the registration of 23 IBUs in the IFSC as on December, 2023, there has been a tremendous growth in the financial landscape of GIFT IFSC.[9]

Purpose and Objectives

GIFT IFSC was conceived primarily with the following objectives:[10]

a. **To onshore the offshore financial activity:** By providing a world-class infrastructure and streamlined regulations, GIFT IFSC aims to attract financial services currently conducted outside India, including but not limited to those involving overseas financial institutions or branches of Indian institutions, thereby generating substantial foreign exchange inflows and boost economic growth.

b. **To develop a global financial hub:** GIFT IFSC seeks to establish itself as a leading IFC, attracting global investments and facilitating cross-border financial transactions to enhance India's global financial footprint and integration into the international financial system.

c. **To promote innovation and technological advancements:** GIFT IFSC encourages the adoption of new

[6] Ministry of Home Affairs, posted on 12, November, 2022 by PIB Delhi, available at: https://www.pib.gov.in/PressReleasePage.aspx?PRID=1875480.
[7] IFSC Bulletin Oct-Dec 2023; available at: https://ifsca.gov.in/ReportPublication/index/wF6kttc1JR8=
[8] IFSCA Bulletin Oct-Dec 2023, available at: https://ifsca.gov.in/ReportPublication/index/wF6kttc1JR8=
[9] IFSCA Bulletin Oct-Dec 2023, available at: https://ifsca.gov.in/ReportPublication/index/wF6kttc1JR8=
[10] FAQ- GIFT IFSC, available at: https://giftsez.com/gift-ifsc.aspx, https://giftsez.com/documents/FAQs-GIFT-IFSC-Latest.pdf.

technologies and innovative solutions within the financial sector, leading to increased efficiency, cost reduction and improved customer service in the financial industry.

d. **To create a skilled workforce:** GIFT IFSC aims to foster a skilled workforce equipped with international financial expertise which will contribute to India's emergence as a global financial powerhouse.

Regulatory Environment and Opportunities

The conducive regulatory environment for both foreign and domestic banks, has attracted renowned names such as HDFC, HSBC, SBI, Barclays, DBS, Deutsche and JP Morgan, among others remains one of the pivotal features of GIFT IFSC.[11] Additionally, internationally benchmarked tax regime, including a 10-year tax holiday, have played a significant role in attracting the financial institutions to set up operations within GIFT IFSC.

The IFSC's offerings further extend beyond banking and insurance to encompass areas like alternate investment funds, two international stock exchanges, fintech entities and aircraft and ship leasing. Recent developments, such as the onshoring of the Singapore Exchange and the principle based IFSC banking frameworks, have further boosted its prominence in global financial circles.[12]

Within this dynamic sphere in order to promote the ease of doing business and provide for dedicated regulatory intervention, the Government of India through an Act of Parliament in December 2019, set up the International Financial Services Centres Authority ("**IFSCA**") as a unified authority for development and regulation of financial markets in the IFSC in India. IFSCA assumed the powers of four domestic financial regulators namely RBI, SEBI, IRDAI & PFRDA within the IFSC in India w.e.f 1st October 2020.

In the last 3.5 years, GIFT IFSC has witnessed substantial growth across the entire spectrum of financial services business including Banking, Capital Markets, Fund Management, Insurance, Aircraft Leasing, FinTech, etc. To provide world-class regulatory architecture to institutions setting up business operating in IFSC, over 40 new IFSCA regulations/frameworks have been notified/issued in the last 3.5 years.

III. Importance of Developing NR and NRI Businesses in GIFT IFSC

The strategic importance of developing NR and NRI businesses in GIFT IFSC cannot be understated. While India retains its position as the largest recipient of remittance with an estimated $125 billion in 2023,[13] NRIs, with their close ties to India, hold the key to channelling substantial investments into India's economy. With over 32 million NRIs/PIOs residing outside India as can be seen in Table 1.1, their impact is both discernible and significant.[14]

The NRI deposit market in India has seen a consistent inflow of funds over recent years as evident from Table 1.2. Starting at $ 9,062 billion in March 2019, the outstanding NRI Deposits stand at $149.724 billion as of February 2024, thereby underlying the sustained confidence and investment interest of NRIs in India's financial landscape. [15]

This upward trend in NRI Deposits signifies the confidence and trust of NRIs in the country's economic stability, making these deposits a significant contributor to the overall financial landscape. The consistent

[11] Licensed Entities at GIFT IFSC, available at: https://www.giftgujarat.in/business/ifsc?tab=Licensed%20Entities.
[12] Onshoring the India Innovation to GIFT IFSC, available at: https://ifsca.gov.in/Document/ReportandPublication/onshore-the-indian-innovation-to-gift-ifsc-a4-1327082023112304.pdf.
[13] For more details refer to: https://www.migrationdataportal.org/themes/remittances
[14] Ministry of External Affairs, available at: https://www.mea.gov.in/images/attach/NRIs-and-PIOs_1.pdf
[15] RBI Report, Entry 33, NRI Deposit, available at: https://www.rbi.org.in/Scripts/BS_ViewBulletin.aspx?Id=22562

growth reflects the attractiveness of the investment environment and the diaspora's faith in the country's economic prospects.[16] Their engagement serves as a catalyst, amplifying GIFT IFSC's reach and impact on India's financial ecosystem and establishing a certain credibility to the GIFT IFSC which in turn promotes NR and NRI investor confidence and participation.

Indian Diaspora

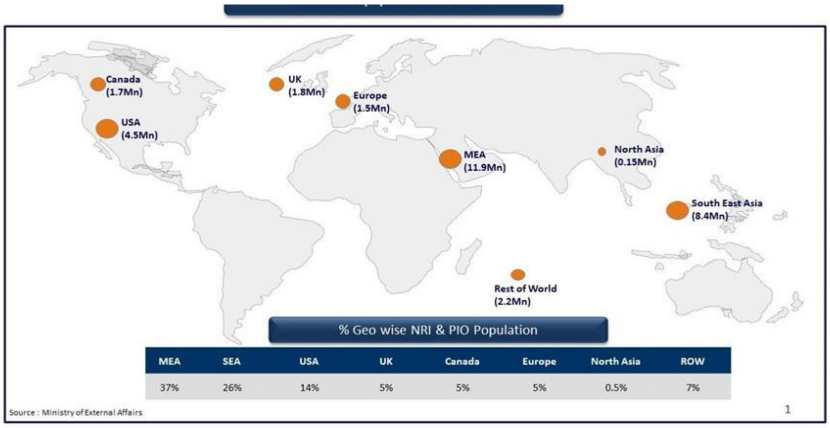

Table 1.1

NRI Deposit Market

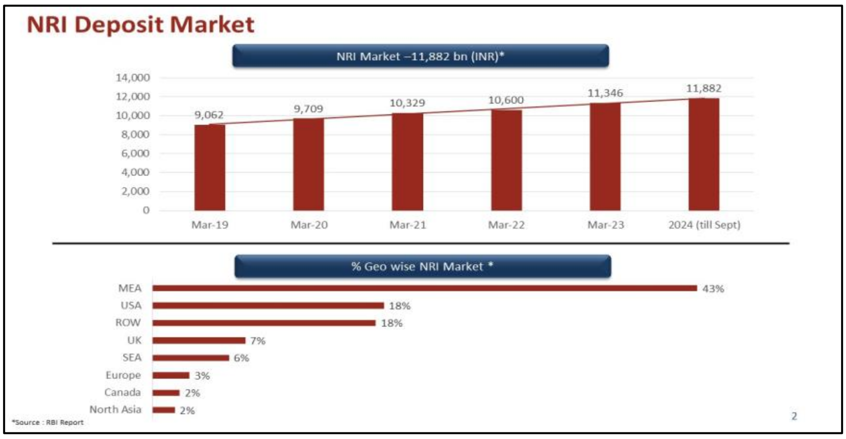

Table 1.2

Some of the key reasons to promote NR and NRI investment into GIFT IFSC are set out below:

1. **Strengthening India's Financial Ecosystem:**

   - NR and NRI businesses bring more than just capital. They introduce innovative financial products and services to the Indian market, enhancing competition and improving the overall efficiency of the financial sector.[17]
   - Their presence can foster knowledge transfer and best practices, thereby upskilling the domestic workforce and contributing to the development of a robust financial ecosystem.

[16] NRI Deposit, available at: https://www.rbi.org.in/Scripts/BS_ViewBulletin.aspx?Id=22361

[17] https://ifsca.gov.in/Document/ReportandPublication/onshore-the-indian-innovation-to-gift-ifsc-a4-1327082023112304.pdf.

2. **Global Hub for Financial Services:**

- By attracting NR and NRI businesses, GIFT IFSC can establish itself as a leading global hub for financial services, attracting investments from various regions and competing effectively with established financial centres like Singapore and Dubai.
- This would enhance India's international financial standing and influence, allowing it to play a more prominent role in global financial governance.

3. **Employment Generation:**

- NR and NRI businesses setting up operations in GIFT IFSC would create new job opportunities for Indian professionals, particularly in high-skilled fields like finance, technology and legal services.
- This is directly in line with the Government's goal of creation of large-scale employment in GIFT IFSC, to contribute to reducing unemployment, fostering talent development within the country, and facilitating the growth of the Indian economy at large.[18]

4. **Foreign Exchange Reserves:**

- Remittances from NRs and NRIs are a significant source of foreign exchange reserves for India. Encouraging them to invest in GIFT IFSC can lead to increased inflows of foreign currency, further strengthening the country's foreign exchange reserves and contributing to economic stability.

IV. How NRIs Contribute to the Indian economy

NRIs, often referred to as the diaspora, play a vital role in the economic development of both their country of work and their country of origin. Their contributions span economic, social and cultural spheres, creating a positive ripple effect that benefits both countries.

1. **Remittances:**

NRIs significantly contribute to the Indian economy through remittances, which involve sending money back to their families in India. According to a recent report published by the World Bank, India's inward gross remittance touched an all-time high of $125 billion during the calendar year 2023. This influx of funds has played a crucial role in stabilizing India's economy, bolstering foreign currency reserves, and helping the country manage its current account deficit.[19]

The changing profile of NRIs, with a shift in the countries they work in, has contributed to the increase in remittances. Notably, the United States has become the leading source of remittances to India, reflecting the improved economic status of NRIs in developed countries.[20] The educational and financial success of Indians in the U.S., particularly those with higher degrees and well-paying jobs, has led to an uptick in remittances. Additionally, initiatives like the UPI linkage with Singapore's PayNow have facilitated fast and cost-effective cross-border funds transfers,[21] further boosting India's inward remittances. Overall, financial support from NRIs plays a vital role in strengthening India's economy and currency.

Traditional NRI inflow states like Kerala and Tamil Nadu are witnessing a shift. Maharashtra has taken

[18] Available at: Gujarat International Finance Tec-City - Global Financial Hub (giftsez.com).
[19] For more details refer to: https://www.migrationdataportal.org/themes/remittances
[20] Ministry of Finance press release posted on 7th February, 2023 by PIB Delhi, available at: https://pib.gov.in/PressReleasePage.aspx?PRID=1897036.
[21] Cross-border real-time money transfers, available at: https://pib.gov.in/Pressreleaseshare.aspx?PRID=1911736.

the lead with a 35.2% share in total remittances, surpassing Kerala. Delhi's remittance share is now comparable to Tamil Nadu. This change is indicative of a shift in emigration patterns towards value addition, moving away from traditional states as can be seen in Table 1.3 below.[22] The changing landscape, both in source countries and states within India, underscores the dynamism in the global Indian diaspora, thereby, making it imperative for policymakers to harness these financial flows for sustained economic growth.

Inward & Outward Remittance Market

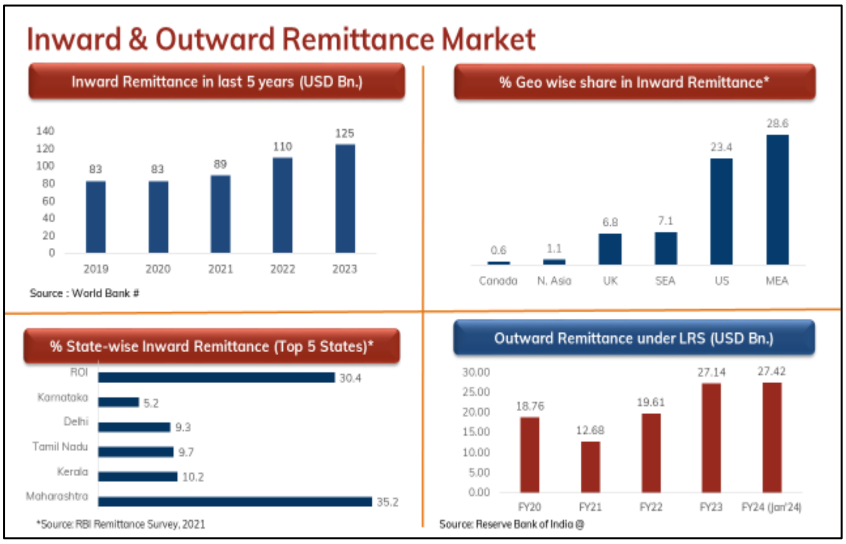

Table 1.3

2. **Investment:**

- *Direct Investment:* NRI invests in businesses, real estate and other assets in their country of origin. This investment can create jobs, boost economic activity and contribute to infrastructure development.[23]
- *Portfolio Investment:* Foreign investment plays a crucial role in fueling domestic businesses and fostering the growth of financial markets. NRI's participation in the capital markets, private equity and other financial instruments inject valuable capital into the economy, facilitating business expansion and innovation. By investing in local stocks, private equity and other financial instruments, NRIs acts as vital catalysts for economic development. Their capital contributions empower businesses, propelling their growth and strengthening the financial markets.
- *Philanthropy:* Many NRIs are active philanthropists, donating funds to support various causes in their home countries, such as education, healthcare and infrastructure development. This financial support helps improve the lives of people in India and contributes to social progress.[24]

3. **Knowledge Transfer:**[25]

- *Skills:* NRIs often gain valuable skills and expertise in their adopted countries. This knowledge can be transferred back to India through various channels, such as returning home to start businesses, providing mentorship and training to others, or participating in knowledge-sharing programs.
- *Innovation:* NRIs also act as bridges between the innovation ecosystems of their countries of work

[22] Handwinds of Covid-19 and India's Inward Remittance, available at: https://www.rbi.org.in/Scripts/BS_ViewBulletin.aspx?Id=21141.
[23] World Invetsment Report, 2023, available at: https://unctad.org/publication/world-investment-report-2023.
[24] Diaspora philanthropy: An Industry perspective, available at: https://www.cafamerica.org/wp-content/uploads/DPS_Report18_v5.pdf.
[25] https://thenetworkinginstitute.com/wp-content/uploads/2016/02/Diaspora-Toolkit-Book.pdf

and India. They can facilitate the transfer of technology, connect businesses and researchers and introduce new ideas that can promote economic progress in India.

- *Cultural exchange:* NRIs act as cultural ambassadors, promoting Indian traditions, customs and values in their host countries. This can lead to greater understanding and appreciation for Indian cultures, fostering international cooperation and global citizenship and further helping to "demystify" India.

Harnessing the potential of NRIs while addressing challenges can yield substantial economic rewards for GIFT IFSC. Their substantial financial remittances play a pivotal role in stabilizing India's economy, bolstering foreign currency reserves and managing the current account deficit. Beyond monetary contributions, NRIs act as conduits for knowledge transfer, bringing back valuable skills and fostering innovation that propels India into the global arena. Cultural ambassadors in their host countries, NRIs enhance India's global standing by promoting traditions and values. Furthermore, their investments, encompassing direct, portfolio and philanthropic initiatives, contribute significantly to job creation, economic diversification and social progress. In essence, NRIs emerge as vital catalysts for economic development, leveraging their financial, intellectual and cultural capital to leave a lasting and positive impact on the Indian economy.

V. Significance of Conducting Global Benchmarking

GIFT IFSC, India's vision for setting up an international global financial hub, stands poised to carve its path in the world of finance. Yet, to truly reach its full potential, it must not only establish a robust legal and regulatory framework but also strategically leverage the potential of a vast pool of NR and NRI capital. This is where benchmarking emerges as a powerful tool, not just for comparison, but for enabling GIFT IFSC to the forefront of international finance.

With over 3 Crore Indians residing overseas,[26] attracting and retaining their business is not just about boosting financial activities; it is about building credibility, amplifying reach, and establishing India's presence on the global financial stage. NRIs, with their deep ties to India, can act as catalysts for channeling substantial investments into the Indian economy, propelling GIFT IFSC's growth trajectory.

Benchmarking against established global financial centres provides the crucial lens through which GIFT IFSC can assess its strengths, identify gaps and best practices from global IFCs. This report by delving into the regulatory framework, product innovation and onboarding processes of the leading IFCs, aims to unlock the immense potential of NR and NRI capital towards becoming a global financial hub and at the same time fueling India's economic journey.

Benchmarking against these diverse powerhouses serves a multitude of purposes. Firstly, it offers a clear understanding of GIFT IFSC's current position relative to global standards. This self-evaluation allows for the identification of areas requiring focus and improvement, enabling GIFT IFSC to prioritize its development roadmap. Secondly, by delving into the best practices employed by established centres, the report presents a targeted set of actionable strategies. These can be adapted and implemented to enhance GIFT IFSC's competitiveness to attract NR and NRI business and talent. Finally, benchmarking fosters a culture of continuous improvement within GIFT IFSC. By regularly comparing itself to global standards, GIFT IFSC remains committed to innovation and excellence, propelling it towards a future as a leading global financial hub.

[26] Population of Overseas Indians, available at: https://www.mea.gov.in/population-of-overseas-indians.htm

VI. Overview of IFCs: A Global Perspective

The global financial landscape is dotted with strategically located cities that act as magnets for financial activities. These IFCs serve as vital conduits for global capital flows, fostering cross-border financial transactions and providing a range of sophisticated financial services. From banking and insurance to asset management and trading, IFCs are the lifeblood of the global financial system, driving economic growth and development around the world.

From their historical roots in London and New York to the emergence of diverse players like Tokyo, Frankfurt, and Hong Kong, IFCs have evolved into complex ecosystems.[27] They are comprised of intricate networks of stakeholders, including financial institutions, markets, professional services, regulatory bodies and critical infrastructure. Each element works in tandem to create a dynamic environment that facilitates a vast array of financial activities.

As the global landscape continues to evolve, driven by technological advancements, globalization and regulatory changes, IFCs face both opportunities and challenges. While the rise of ESG and emerging markets creates exciting possibilities for growth and innovation, increasing competition and regulatory and administrative burdens demand agility and adaptability. Geopolitical risks further add complexity, requiring IFCs to navigate a dynamic and often unpredictable world.[28]

This report examines and compares the regulatory regimes of five leading IFCs: New York, London, Luxembourg, Dubai International Financial Centre (**"DIFC"**) and Singapore. By analysing their strengths and distinctive features, the report aims to integrate best practices applicable to the GIFT IFSC to promote ease of doing business and NR and NRI participation to solidify GIFT IFSC's position as a global financial centre.

A. New York

New York City, represented by Wall Street in Manhattan's Financial District, has been a leading global financial centre since the middle of the 20th century.[29] Despite the emergence of other financial centres in Asia, New York City's dominance remains strong due to its significant domestic and international financial activities, such as asset management and equity issuance.[30]

New York City's rise as a financial centre began with the establishment of the New York Stock Exchange (**"NYSE"**) in 1792.[31] Factors such as its strategic harbour location, promotion of diverse talent through immigration and development of key institutions including major banks and insurance companies contributed to its financial prominence.[32] Hosting pivotal entities like the NYSE and NASDAQ, it lists major corporations, including industry giants like Google, Apple and Amazon, amplifying its impact.[33]

[27] Financial Status as an Alternative Interventionist Approach in Developing International Financial Centres (IFCs): The Case of Shanghai since the 1990s , available at: https://core.ac.uk/download/pdf/29410748.pdf.
[28] Hines, James R., Jr. "International Financial Centres and the World Economy." STEP Report. London: Society of Trust and Estate Practitioners, (2009), available at:https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1190&context=other#:~:text=As%20the%20process%20of%20globalization,policies%20increasingly%20attractive%20for%20themselves.
[29] "History of Wall Street," TheStreet.com, available at: https://www.thestreet.com/lifestyle/history-of-wall-street#:~:text=1711%20%E2%80%93%20The%20city%20of%20New,meet%20at%20to%20conduct%20trades.
[30] Reuters, "New York Remains Top Financial Centre, London Clings to Second Place: Survey,", available at: https://www.reuters.com/article/us-survey-markets/united-states-top-britain-second-in-financial-activity-think-tank-idUSKCN1LK2TM/, New York remains top financial centre, London clings to second place, survey shows | Reuters.
[31] New York Stock Exchange, "History of NYSE," NYSE, available at: The History of NYSE.
[32] Charles P. Kindlebergei, The Formation of Financial Centers: A Study in Comparative Economic History, available at: https://ies.princeton.edu/pdf/S36.pdf.
[33] "Wall Street Sees Glimmer of Hope for Investment-Banking Revival," Bloomberg, available at: https://www.bloomberg.com/news/articles/2023-07-18/wall-street-sees-glimmer-of-hope-for-investment-banking-revival.

B. London

London became a major global financial centre in the 1800s due to its strategic positioning, strong legal framework and the rise of important financial institutions.[34] In the early twentieth century, it played the role of a bank to the British Empire.[35] The global presence of the currency allowed for relaxations in exchange controls and led to the development of eurocurrency and Eurobonds in the 1950s and subsequently the regulations and de-regulations of capital and securities markets by the 1980s.[36]

In 1979, Britain removed foreign exchange controls that were imposed during the Second World War.[37] Subsequently, the city's financial markets were de-regulated leading to the 'Big Bang'. The removal of fixed rate commissions, the entry of foreign corporates and the shift to electronic modes of trading had a significant impact on London's place as a global financial centre.

The city's prime location facilitated international trade and financial transactions. English contract law and well-established court system trust and confidence in London's financial dealings. The English common law system dating back over 900 years, remains relevant today, adapting to new legislations and interpretation by judges.[38]

Despite its age, due to its strategic advantages like its time zone, diverse talent pool and well-established legal and regulatory framework,[39] stands as a global financial powerhouse, excelling across key sectors like derivatives trading, and foreign exchange markets accounting for over 40% of global daily trading volume,[40] money markets,[41] international debt securities,[42] international insurance[43] and precious metal trading.[44]

C. Luxembourg

Luxembourg has emerged as a strong financial centre, leveraging over five decades of development in private banking, investing, corporate lending, and insurance systems.[45]

The transformation of Luxembourg into a major financial hub took shape in the last 15-20 years. Initially propelled by extensive liberalization and integration in the early 1980s, the country hosted American and European banks, facilitating international credits and fostering the growth of financial instruments like Eurodollars. Subsequently, in the late 1970s, a shift towards developing private banking, investments and asset management emerged. The arrival of foreign banks in the 1990s expanded the scope of sophisticated

[34] John R. Bryson, London's continued future as a Global Financial Centre in the post-Brexit Era, available at: London's continued future as a Global Financial Centre in the post-Brexit Era - University of Birmingham.
[35] Why British Banks Dominated Colonial Financial Markets For So Long, available at: Why British Banks Dominated Colonial Financial Markets For So Long | Economic History (lse.ac.uk).
[36] "Finance of London," Encyclopaedia Britannica, available at: https://www.britannica.com/place/London/Finance.
[37] "The political roots of capital mobility: reassessing Britain's abolition of exchange controls," LSE Politics and Policy Blog, available at: The political roots of capital mobility: reassessing Britain's abolition of exchange controls | British Politics and Policy at LSE.
[38] Supra at 55.
[39] https://www.theglobalcity.uk/global-financial-centre.
[40] "The foreign exchange market," BIS Working Papers No. 1094, available at: https://www.bis.org/publ/work1094.pdf.
[41] "The City of London as a Centre for International Banking: The Asian Dimension in the Nineteenth and Twentieth Centuries," Oxford Academic, available at: https://academic.oup.com/book/33039/chapter/281247372.
[42] https://www.londonstockexchange.com/raise-finance/debt/our-products/sukuk#:~:text=London%20Stock%20Exchange%20offers%20a,transactions%20on%20our%20markets%20show.
[43] https://lmg.london/wp-content/uploads/2022/09/Why-London-Matters-2022.pdf.
[44] https://www.lme.com/en/.
[45] "Luxembourg's financial hub still benefitting since Brexit," Luxembourg Times, available at: https://www.luxtimes.lu/luxembourg/luxembourgs-financial-hub-still-benefitting-since-brexit/2267707.html.

financial activities.[46] Luxembourg's consistent commitment to innovation has allowed it to adapt quickly to external changes.[47]

The centre's expertise in investment fund management, international securities listing and capital markets infrastructure attracts companies of all sizes to finance their European and global activities.[48] Key offerings include private banking services, mutual funds and reinsurance, reflecting Luxembourg's diverse and robust financial landscape, capable of integrating seamlessly into international structures beyond its borders.[49]

D. DIFC

The emergence of DIFC in Dubai has become a game-changer for the United Arab Emirates (**"UAE"**) economy, shifting from reliance on oil to a diverse global financial and trade hub. Established in 2004, it reflects Dubai's aims to broaden its economic base and create a business-friendly environment. The DIFC regulated by its own independent regulator and by its own Court, follows a common law framework separate from that of the federal government of UAE to attract international investors.[50]

Modelled after the UK's Financial Services Authority, the DIFC attracts global financial players, operating in the Middle Eastern, African, and South Asian (**"MEASA"**) markets, spanning 72 countries and holding a 20-year track record of facilitating trade and investment within this expansive region.[51] Regulated by regulatory bodies like the Dubai Financial Services Authority,[52] (DFSA), tasked with formulating and enforcing regulatory standards and the DIFC Authority, responsible for development support. Additionally, the Dispute Resolution Authority,[53] (DRA) oversees dispute resolution within the financial centre, ensuring impartial and efficient resolution mechanisms.

The Dubai International Financial Exchange (DIFX) later known as NASDAQ Dubai, was introduced in 2005 to improve market liquidity.[54] Despite the global financial crisis, the DIFC has consistently grown since 2008, hosting major global banks and corporations. Notably, by 2009, the DIFC hosted 20 of the world's top 25 banks and 6 of the top 10 largest asset managers, signifying its global prominence.[55] Positioned strategically, it connects the MEASA markets with economies worldwide, supporting over 36,000 professionals and more than 4,300 registered companies.[56]

Its commitment extends to various initiatives encompassing governmental alignment, environmental consciousness, social responsibility, sustainability and governance.[57] Offering diverse financial products

[46] Spotlight on the history of the Luxembourg financial centre | C2DH | Luxembourg Centre for Contemporary and Digital History (uni.lu).
[47] https://www.luxembourgforfinance.com/en/financial-centre/the-luxembourg-financial-centre/.
[48] "Capital Market", LuxembourgforFinance, available at: https://www.bing.com/ck/a?!&&p=288e85802648375bJmltdHM9MTcwMjQyNTYwMCZpZ3VpZD0zZGM5MDBlNi1mMDU0LTYxNGMtM2Y2Mi0xMzIzZjEzMDYwODQmaW5zaWQ9NTIxMg&ptn=3&ver=2&hsh=3&fclid=3dc900e6-f054-614c-3f62-1323f1306084&psq=Besides+being+a+global+leader+for+international+securities+listing%2c+Luxembourg%e2%80%99s+capital+markets+infrastructure+and+unique+international+expertise+make+it+perfect+destination+for+companies+of+all+sizes+to+finance+their+European+and+global+activities.&u=a1aHR0cHM6Ly93d3cubHV4ZW1ib3VyZ2ZvcmZpbmFuY2UuY29tL3dwLWNvbnRlbnQvdXBsb2Fkcy8yMDIwLzEyL0xGRl9DQVBJVEFMX01BUktFVF8yMDIwLnBkZg&ntb=1.
[49] "Capital Market", LuxembourgforFinance, available at:https://www.luxembourgforfinance.com/en/financial-centre/capital-markets/.
[50] "Dubai International Financial Centre has been a catalyst for development in the Gulf region," World Finance, available at: https://www.worldfinance.com/banking/dubai-international-financial-centre-has-been-a-catalyst-for-development-in-the-gulf-region.
[51] https://www.difc.ae/.
[52] https://www.dfsa.ae/.
[53] https://www.difccourts.ae/difc-courts/services/specialised-divisions/arbitration.
[54] https://www.nasdaqdubai.com/.
[55] https://emiratesdiary.com/uae-tips/list-companies-difc-dubai-international-financial-centre.
[56] https://www.difc.ae/who-we-are.
[57] "Dubai International Finance Centre Grows at Record-Breaking Pace in 2022," PR Newswire, available at: https://www.prnewswire.com/ae/news-releases/dubai-international-finance-centre-grows-at-record-breaking-pace-in-2022-301751147.html; "DIFC Continues to Drive Action on Global Climate Change on Path to COP28, Announces Future Sustainability Forum in Dubai," ACN Newswire,

and services—from capital markets to asset management—the DIFC caters to various sectors, solidifying its position as a comprehensive global financial centre.

E. Singapore

Singapore's evolution as an IFC began during the colonial era when the British East India Company established its presence in 1819. The city-state quickly gained prominence due to its strategic geographical location, flourishing in trade under the British Empire and serving as a crucial naval base. This period witnessed pivotal developments in financial services, including currency exchange, shipping insurance and maritime finance, driven by the burgeoning trade and shipping activities.

The turning point in Singapore's financial development came with a "state-led and development-driven" approach adopted by the government. This approach fostered exponential growth in highly complex and internationalized financial institutions while inviting and regulating foreign financial entities. The establishment of the Stock Exchange of Singapore in 1973 allowed companies to raise capital through equity markets. Subsequent mergers, notably the formation of the SGX, further expanded the depth and diversity of the capital markets in the region.

Situated between Asia and Pacific Rim, Singapore's location, attracts Western financial institutions looking to tap into vibrant Asian markets.[58] Singapore has been ranked as the 3rd best financial centre globally and the best in APAC.[59] Its significance as a financial hub is highlighted by its smart city features, emphasizing efficiency, automation and skilled human resource training in administrative processes.[60] Singapore's financial strength spans across various sectors, including banking and finance, asset management, capital markets, insurance and fintech.[61] Its rise as an IFC is supported by regulatory frameworks that prioritize compliance, transparency and investor protection. Institutions such as the Monetary Authority of Singapore (MAS) symbolize this commitment, fostering trust and reliability in the global financial community.[62]

available at: https://www.acnnewswire.com/press-release/english/85434/difc-continues-to-drive-action-on-global-climate-change-on-path-to-cop28,-announces-future-sustainability-forum-in-dubai.

[58] "Singapore: The Leading Financial Centre in the Asia-Pacific Region," CFI.co, available at: Singapore — the leading financial centre in the Asia-Pacific region | CFI.co.

[59] https://cfi.co/asia-pacific/2023/01/singapore-the-leading-financial-centre-in-the-asia-pacific-region/.

[60] "Singapore: A Global Financial and Fintech Hub for Innovation," Invest NI, available at: Singapore: A global financial and FinTech hub of innovation | Invest Northern Ireland (investni.com).

[61] For more details, refer to: Singapore Smart City - About Smart Cities®.

[62] For more details, refer to: https://www.brookings.edu/.

I. New York

New York's IFC plays a significant role in global finance, supported by key institutions like the Federal Reserve Bank of New York (FRBNY) and the NYSE. This financial hub, centered in Wall Street, attracts attention worldwide as a renowned hub for international trade and investment.[63]

The financial landscape in New York provides an extensive suite of financial products and services tailored to cater to the multifaceted needs of NR businesses as discussed below:

a. **Banking**: New York's banking sector caters comprehensively to NR businesses offering a range of banking products, encompassing traditional banking services alongside specialized international accounts and cross-border lending facilities. The banks allow NRs to benefit from multi-currency accounts, international wire transfers and online banking platforms ensuring seamless global transactions.[64]

   International banking further allows certain entities including exporters, importers, multinational corporations, foreign businesses, governments, consumers, foreign banks and overseas branches of US banks to access international lending facilities for various purposes, such as working capital, project financing and investments. The interest earned from lending to foreign borrowers, both internationally and domestically, remains a major source of profit for banks that conduct international activities.[65] Furthermore, a letter of credit is also issued by the banks depending on the type and circumstances of the underlying transaction, ensuring smooth flow of international trade transactions.[66]

   U.S banks manage private banking relationships for both domestic and international customers. Typical private-banking services include: cash management, funds transfer, asset management (e.g. trust, investment advisory), lending services, financial planning (e.g. tax and estate planning), custody services and other support as requested.[67] Furthermore, private and investment banking services from institutions like Goldman Sachs and Morgan Stanley cater specifically to high-net-worth individuals and businesses, providing personalized asset management, commercial banking and private banking experiences.[68]

b. **Insurance:** The insurance sector within New York's IFC provides a comprehensive range of products spanning from traditional life, health, travel, property and casualty insurance to specialized products like cyber insurance,[69] and climate risk coverage, subject to fulfilment of certain conditions.[70] The New York State Department of Financial Services oversees a stringent yet innovative regulatory framework ensuring stability and fostering an environment conducive to insurers and policyholders.

c. **Capital Markets:** The New York IFC embodies a diverse array of capital market products and services,

[63] For more details, refer to: https://www.nyse.com/index.
[64] For more details, refer to: https://www.wallstreetprep.com/knowledge/ultimate-guide-to-corporate-banking/.
[65] For more details, refer to: https://www.fdic.gov/resources/supervision-and-examinations/examination-policies-manual/section11-1.pdf.
[66] Ibid.
[67] Ibid.
[68]For more details, refer to: https://privatewealth.goldmansachs.com/, https://www.morganstanley.com/what-we-do/investment-banking , https://www.morgankingston.com.
[69] For more details, refer to: Cybersecurity Resource Center | Department of Financial Services (ny.gov).
[70] For more details, refer to: https://www.dfs.ny.gov/industry_guidance/circular_letters/cl2020_15.

catering specifically to the varied needs of global investors.

i. **Bonds Market:** From convertible bonds to corporate bonds, foreign bonds and non-US currency denominated bonds, investors encounter an array of investment opportunities, empowering informed decision-making.[71]

ii. **Corporate Structured Products:** Capital securities, mandatory convertible securities, repackaged securities and retail debt securities present diverse structures and terms, appealing to varied risk appetites.

iii. **Equities Market:** Operating across multiple platforms, the NYSE sets the standard for reliability, establishing displayed prices, facilitating superior price discovery, and fostering deep liquidity.[72]

iv. **Options Market:** NYSE's options markets, including NYSE American Options and NYSE Arca Options, blend technology and expertise. Differing pricing and allocation models, coupled with a unified technology platform, offer choice and flexibility for option traders. Products like equity options, index options, and ETP options provide a wide range of investment strategies.[73]

v. **Hybrid Instruments:** NRs in New York IFC have access to various hybrid financial instruments, such as ETFs, Real Estate Investment Trusts (REITs), convertible bonds, preferred stocks, structured notes, closed-end funds and hedge funds. These instruments offer a blend of features from both traditional stocks and bonds, providing diverse investment options. The availability of these instruments to NRs can depend on regulatory conditions, individual investment platforms, and specific financial institutions.[74]

The New York IFC access to event spaces, online payment services and diverse media partners further elevates exposure, enhancing growth opportunities for businesses.[75]

II. London

In the realm of international finance, London offers an extensive array of products and services tailored to meet the diverse needs of international investors.[76]

a. **Banking:** London's banking sector extends a wide range of services for NRs, accounting for twenty percent of the global total cross-border banking and is also home to various international and foreign banks, offering a wide range of activities, including wholesale banking, insurance, foreign exchange etc.[77]

i. **Commercial Banking Services:** London's commercial banking sector caters to both individuals and corporations, providing traditional products like savings and checking accounts, alongside versatile

[71] https://www.nyse.com/products/bonds.
[72] https://www.nyse.com/products/equities.
[73] https://www.nyse.com/options#products.
[74] https://www.finra.org/rules-guidance/notices/14-23.
[75] https://www.nyse.com/products/exchange-traded-products.
[76] https://www.theglobalcity.uk/global-financial-centre.
[77] Phan Dai Thich, 'Assessing London International Financial Centre in Double Uncertain Scenarios,, SBE no. 17(2) 2022, available at: https://www.researchgate.net/publication/363634282_ASSESSING_LONDON_INTERNATIONAL_FINANCIAL_CENTER_IN_DOUBLE_UNCERTAIN_SCENARIOS.

loan and multiple currency options.

ii. **Investment Banking Solutions:** Investment banks in London specialize in services such as mergers and acquisitions (M&A), underwriting and corporate advisory.

iii. **Private Banking for High-Net-Worth Individuals:** London's private banking sector offers personalized financial services like wealth management, estate planning, portfolio management and tailored advisory services.

b. **Insurance:** The insurance market in London's IFC provides diverse coverage for NR businesses. From life insurance policies offering stability to property and casualty insurance covering various risks associated with assets or operations. London is the second largest insurance market after US and dominates the worldwide market for internationally traded insurance and reinsurance.[78] Lloyd's of London dominates the London Market with focus on high-exposure risks.[79]

In the London IFC, a robust array of insurance products is available to cater to the needs of foreign investors:

i. **Life Insurance and Protection:** London offers diverse life insurance products providing financial security against unforeseen events for individuals and businesses. This sector significantly contributes to the UK's surplus in insurance and pension services, with substantial export figures, including top customers like the United States, Europe and Canada. Life insurance services alone constitute more than two-thirds of the total premium.

ii. **Property and Casualty Insurance:** For foreign investors with assets or operations in London, property and casualty insurance policies cover risks associated with property damage, liability and business interruptions. The insurance market in London provides tailored policies for various industries and risk profiles, offering specialized coverage.

iii. **Reinsurance:** London serves as a global hub for reinsurance solutions, allowing foreign investors access to products that manage and mitigate risks related to large-scale events or catastrophic losses. Reinsurance offers an additional layer of protection for primary insurers and global investors against significant financial exposures.

c. **Capital Markets:** London's capital markets offer a suite of services across various platforms, including the London Stock Exchange (LSE),[80] FXall,[81] Tradeweb, Turquoise Retail Max,[82] and Alternative Investment Market (AIM).[83]

i. **Equities:** LSE serves as a primary platform for trading equities, enabling access to a diverse range of publicly listed global companies. Investors can participate in company growth and dividends.[84]

[78] https://www.thecityuk.com/media/wympuijs/key-facts-about-the-uk-as-an-international-financial-centre-2022.pdf.
[79] http://www.deloitte.co.uk/investingintheuk/pdfs/india/uk_investingintheuk_in_fivefinancialmarketsintheuk.pdf.
[80] https://www.londonstockexchange.com/.
[81] https://www.lseg.com/en/fx/venues/fxall-electronic-trading-platform.
[82] https://www.lseg.com/en/media-centre/press-releases/2023/lseg-launches-new-trading-service-supporting-best-execution-for-retail-brokers-on-turquoise-.europe#:~:text=Turquoise%20Retail%20Max%E2%84%A2%20is,partnership%20with%20the%20user%20community.
[83] https://www.londonstockexchange.com/raise-finance/equity/aim.
[84] Market estimates suggest that approximately three quarters of secondary market turnover in dollar Eurobonds (which amounted to $358 billion in the first half of 1989(3) occurs in London. One influence is the fact that Eurobonds cannot be sold into the United States before the end of a 90-day seasoning period. Trading in other centres tends to be driven mainly by local customer needs. In contrast to eurodollar bonds, the proportion of trade in US government bonds taking place in London is, according to market sources, perhaps 5%-10%, yet, given the size of that

ii. **Bonds:** London provides opportunities in fixed-income securities like government, corporate, and international bonds, offering regular interest payments and potential capital appreciation.

iii. **Derivatives:** London's financial markets facilitate trading in sophisticated instruments like futures, options, and swaps. These aid investors in hedging risks, speculating on price movements, and managing exposure across asset classes, currencies, and interest rates.

iv. **Foreign Exchange (Forex):** London holds the world's leading position in Forex trading, handling substantial daily volumes exceeding $3.8 trillion.[85]

v. **Hybrid Instruments:** London IFC offers a diverse array of hybrid instruments across different categories including; convertible bonds, Coco bonds (Contingent convertible bonds), structured notes, etc. The availability of these instruments to NRs depends on regulatory conditions and specific financial institutions.[86]

London's capital market division integrates various platforms like the LSE for equities and bonds, Turquoise for diverse asset trading, AIM for small company shares, and venues like LIFFE and Om London Exchange for financial derivatives.[87] Commodities trading is facilitated through exchanges like LME, LCE, IPE, Baltic Exchange, and Gold markets.[88] Furthermore, London offers a wide range of payment gateways that provide businesses with the ability to accept payments from customers around the world.

III. Luxembourg

NR individuals seeking sophisticated financial solutions find Luxembourg's diverse and vibrant financial centre highly attractive. Renowned for its stable regulations, it offers a streamlined process for accessing a wide range of investment options. From traditional banking and insurance products to cutting-edge sustainable and Islamic finance solutions,[89] Luxembourg has tailored choices for both individuals and businesses. Furthermore, with the presence of diverse payment gateways, Luxembourg caters to businesses of all sizes.

a. **Banking:**[90] Luxembourg's IFC offers a comprehensive array of banking products and services across various sectors:

i. **Global wealth management and private banking:** Serving as an EU-onshore base, Luxembourg is a hub for international private banking, offering tailored solutions across multiple jurisdictions for international clients. This includes offering comprehensive services such as investment advice, asset management, wealth and succession planning, real estate management, family office

market, the absolute amount is quite large.") Market estimates suggest that about 30% of the turnover of German government bonds (bunds), 50% of the turnover in international deutschemark straight issues, and 80%-90% of the turnover of deutschemark FRNs occur in London. Several German banks have in recent years set up capital market units in London to trade deutschemark corporate and government bonds. Trading takes place in London partly to avoid Germany's turnover tax on corporate bonds. Trading of euroyen bonds (which totalled $70 billion in the first half of 1989'") is concentrated in London. Trading in London of straight Swiss franc issues is minimal given the limited investor base outside Switzerland.

[85] https://www.theglobalcity.uk/global-financial-centre.

[86] Hybrid Capital Instruments, Technical Note 29, October, 2018, available at: https://assets.publishing.service.gov.uk/media/5cb73246ed915d3f37357f1c/Hybrid_capital_instruments.pdf

[87] https://corporatefinanceinstitute.com/resources/derivatives/london-international-financial-futures-exchange-liffe/#:~:text=The%20London%20International%20Financial%20Futures%20and%20Options%20Exchange%20(LIFFE)%20is,of%20currency%20controls%20in%201979.

[88] Xiaorui Shai, The City a Guide to London Global Financial Centre, available at: https://www.academia.edu/4551103/The_City_A_Guide_to_Londons_Global_Financial_Centre.

[89] https://www.luxembourgforfinance.com/en/financial-centre/islamic-finance/.

[90] https://www.luxembourgforfinance.com/en/financial-centre/banking/.

services, and philanthropic endeavors.

ii. **Corporate finance expertise:** With a rich history in Eurodollar markets, Luxembourg's banks excel in catering to corporate clients with over forty banks in Luxembourg offering commercial and corporate banking services.[91] They provide specialized services like international loans (bilateral and syndicated) and treasury services, tailored to the needs of international financial institutions, real estate developers, investors, professional intermediaries, and non-finance corporations.

iii. **Depository banking for investment funds:** Luxembourg's banks offer a spectrum of fund services, including risk management, transaction supervision, shareholder services, portfolio clearance, order processing, and fund distribution.

The ecosystem is highly specialized, boasting an array of services that complement these core offerings:

i. **Stringent regulations:** Rigorous regulatory and legal environments ensure transparency and compliance, attracting investors focused on regulatory competence and specialized service providers.

ii. **Diverse service providers:** Luxembourg hosts various service providers, including investment services, FinTechs, family offices, wealth planning, real estate management, and philanthropy. Additionally, it accommodates third-party management companies, international listing and post-trade services.

iii. **Global access:** Non-EU banking groups use Luxembourg as a gateway to the EU, benefitting from a passport for their products and services, thereby accessing the EU Single Market. FinTech newcomers like PayPal and Rakuten have chosen Luxembourg as their pan-European banking base.

b. **Insurance:**[92] Luxembourg's insurance industry offers comprehensive solutions for NRs, focusing on life insurance as a wealth management tool. It offers a diverse array of insurance products and services cater to the needs of multinationals, mobile individuals and sophisticated clients worldwide.

i. **Life Insurance and Wealth planning:** The country's insurance sector specializes in life insurance and wealth planning products, providing individuals with comprehensive coverage and investment-linked policies tailored to their financial goals. These contracts, governed by stringent investor protection laws, serve as powerful tools for asset management and succession planning. They are characterized by a higher degree of flexibility by offering policyholders with flexibility in the choice of products, choice of currency, and the ability to combine contracts with various financial vehicles, ideal for easy adaptability to the lifestyle of the policyholder and allows to organise the most diverse portfolios across different geographies.[93]

ii. **Reinsurance & Non-Life Insurance Hub:** Luxembourg serves as a significant centre for captive reinsurance and hosts leading international non-life insurers. Major players, including Swiss Re, AIG, and others, have established their EU continental hubs here. This move facilitates better service for European clients and showcases Luxembourg's prowess as a hub for reinsurance and

[91] https://www.luxembourgforfinance.com/en/financial-centre/banking/.
[92] https://www.luxembourgforfinance.com/en/financial-centre/insurance/.
[93] https://www.luxembourgforfinance.com/en/financial-centre/insurance/.

non-life insurance operations.

iii. **Regulatory Strength & Investor Protection:** Luxembourg's regulatory environment, overseen by the Commissariat aux Assurances (CAA), stands out for its adherence to international and EU standards. The "triangle of security" ensures maximum investor protection through a tripartite agreement between insurers, regulators and custodian banks. This setup mandates asset segregation for life insurance contracts, offering an extra layer of security. Additionally, the *'Super Privilege'* guarantee prioritizes insurance contract holders in case of defaults, further safeguarding their interests.

c. **Capital Markets**[94]

The country's capital markets infrastructure supports diverse financing needs for companies of all sizes. It excels in debt capital, securitization, structured finance vehicles and efficient post-trading services, attracting global investors.

i. **Luxembourg Stock Exchange (LuxSE):** A pioneering institution known for its international listing,[95] and known for innovation, LuxSE has a history of landmark achievements, from listing the first Eurobond in 1963 to listings of sukuk, green bonds and dim sum bonds. The Luxembourg Green Exchange (LGX), the world's first global platform for sustainable securities, stands as a testament to its commitment to sustainable finance.

ii. **Post-Trading Services:** Luxembourg excels in post-trading services, crucial for enhancing market efficiency. Major players like Clearstream, a leading international central securities depository and other providers offer collateral management, clearing, settlement, custody, asset servicing and access to the European Central Bank.

iii. **Securitisation Expertise:** Luxembourg maintains a strong position in securitisation and structured finance, supported by dedicated legislation ensuring innovation and legal certainty. Over 1,400 securitisation vehicles operate in Luxembourg, offering advantages like reduced capital costs, asset liquidity and risk transfer for a wide array of assets, including mortgages, loans, real estate and SME financing.[96]

iv. **Sustainable Finance:** Luxembourg stands out as a global platform for sustainable finance, promoting responsible investment funds, green bond listings and ESG fund labelling. It supports initiatives and funds aimed at investing in green and sustainable projects.

v. **Asset Management:** Luxembourg offers a diverse array of investment vehicles and services tailored for international investors. Known for its pioneering role in European fund regulation, it hosts a comprehensive toolbox of options: Undertaking for Collective Investment in Transferable Securities for stringent retail and institutional standards, Specialised Investment Fund providing flexible multipurpose capabilities, Investment Company in Risk Capital specifically designed for private equity and venture capital, UCI Part II for regulated pooled investments, and Reserved Alternative Investment offering quick time-to-market.

The country also excels in alternative funds, boasting €962 billion in regulated AuM, drawing 19 out

[94] https://www.luxembourgforfinance.com/en/financial-centre/capital-markets/.
[95] Over 41,000 securities from 100+ jurisdictions listed in 60+ currencies.
[96] https://www.luxembourgforfinance.com/en/financial-centre/capital-markets/.

of the top 20 global PE houses.[97] Leveraging its swift adoption of the Alternative Investment Fund Managers Directive **(AIFMD)** and a modernized limited partnership regime, Luxembourg continues to refine its regulatory landscape, attracting over 330 ManCos, 260 Fs, and 600 registered AIFMs.[98]

vi. **Islamic Finance:** Luxembourg offers an environment conducive to Islamic finance, allowing for the setup of shariah-compliant investment funds.

vii. **Convertible and hybrid instruments:** Luxembourg's corporate law also facilitates the issuance of convertible and hybrid instruments. A favourable environment is offered in the Luxembourg market for issuance of convertible bonds. Along with convertible bonds, a Luxembourg-based issuer can also issue hybrid bonds. The Law introduced on August 10, 1915 on commercial companies (the Companies Law) provides for a regime that governs the issuance of convertible bonds. On the contrary, hybrid bonds are usually governed by foreign law i.e. usually of England and Wales.[99] The LuxSE lists and admits to trading equity linked notes, hybrid notes and convertible bonds.[100] Cross border investment structure often use hybrid instruments, such as preferred equity certificates ("PEC") and convertible PEC.[101]

IV. Singapore

Singapore's IFC stands as a global hub for financial services, offering a diverse range of financial products tailored to meet the needs of NRs. This extends to the realm of online payments, where Singapore hosts a diverse and competitive landscape of payment gateways.

We have provided a brief overview of the financial products offered in Singapore below:

a. **Offshore & Private Banking Services:** Singapore offers NR investors access to banking services, allowing them to maintain accounts in Singapore in stable currencies, manage international transactions, establish multi-currency accounts, and benefit from the country's robust banking infrastructure. Several private banks including but not limited to Bank of Baroda, Bank of Taiwan, and Korea Development Bank have set up shop in Singapore and offer a wide array of financial services ranging from asset management, treasury services, stock brokerage, etc.[102] Moreover, given Singapore's inclination to attract HNWIs, foreign private banks such as UBS, Credit Suisse, City Group, etc. offer a wide array of wealth management and investment advisory-related products and services.[103]

b. **Wealth Management Solutions:** The wealth management solutions in Singapore provide access to a broad spectrum of investment products to NR investors, including equities, bonds, mutual funds, and alternative investments, allowing individuals and entities alike to diversify their portfolios in line with their financial objectives and risk tolerance. By the end of 2022, Singapore had around 1,100 (one thousand one hundred) single-family offices set up within it for family wealth management.[104] With a focus on innovation and technological integration, Singapore ensures that clients have access to cutting-edge tools for financial analysis and portfolio monitoring which contributed to Singapore being

[97] https://www.luxembourgforfinance.com/en/financial-centre/asset-management/.
[98] Ibid.
[99] https://www.iflr.com/article/2aosv36vtrirvmsvilvcw/sponsored/the-success-of-luxembourgs-financial-market.
[100] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.loyensloeff.com/debt-capital-markets-2023---luxembourg-chapter.pdf.
[101] https://www.ogier.com/news-and-insights/brochures/structuring-and-financing-private-equity-and-venture-capital-transactions/.
[102] https://www.worldoffshorebanks.com/singapore_international_private_offshore_banks.php
[103] https://incorp.asia/blogs/singapore-banking-sector-guide-for-global-investors/
[104] https://www.mas.gov.sg/development/wealth-management

ranked as the 2nd International Wealth Management Centre globally in 2021.[105]

c. **International Investment Products:** NRs can access a variety of international investment products, including mutual funds, exchange-traded funds ("ETFs"), and other investment vehicles that allow for diversified and global investment opportunities. Singapore also has a corporate bond market which permits NR investors to participate in Singapore's corporate bond market with no restrictions on capital, hedging, or withholding of tax.[106]

d. **Insurance Products:** Singapore provides a spectrum of insurance products, including life insurance, health insurance, and wealth protection solutions. Popular insurance products offered in Singapore include Whole Life Plans, Term Plans, Critical Illness Plans, Capital Guarantees, Investment Embedded Life Insurance Structures, Jumbo Insurance Structures, and International Private Medical Insurance. Singapore has more than 118 (one hundred and eighteen) insurance and reinsurance companies and 88 (eighty-eight) brokers who have contributed to a whopping gross written earned premiums of over USD 18.9 billion.[107]

e. **Forex:** With a focus on international trade and investment, Singapore facilitates foreign exchange services, allowing NRs to efficiently manage currency risk and conduct transactions in various global currencies. Singapore is the largest FX centre globally after New York and London boasting an impressive average daily trading volume of USD 929 billion.[108] Singapore also provides a robust array of foreign exchange and derivative products including but not limited to futures, currency swaps, FX swaps, and options which provide NR investors with the ability to hedge against price fluctuations in assets such as commodities and currencies.[109]

f. **Capital Market Instruments:** Access to a diverse range of capital market instruments, including equities, bonds, and derivatives, enables NRs to participate in global financial markets and diversify their investment portfolios.

g. **Real Estate Investment Opportunities:** NRs can explore real estate investment opportunities in Singapore and beyond, benefitting from the city-state's dynamic property market and the potential for capital appreciation.

h. **Retirement and Pension Planning:** Singapore's IFC supports NRs in planning for their retirement through pension schemes and investment options that help build a secure financial future.

V. Dubai

DIFC stands as a prominent global financial hub, renowned for its comprehensive array of financial products that cater to a diverse range of investor needs. DIFC offers businesses a secure and efficient way to accept payments online, with options catering to all business sizes. DIFC is governed by three independent bodies which are the DIFC Authority, Dubai Financial Services Authority, and the Dispute Resolution Authority.[110]

The nature of financial activity undertaken in DIFC can be categorized into 7 (seven) broad categories as

[105] Ibid.
[106] https://www.mas.gov.sg/development/fixed-income
[107] https://www.mas.gov.sg/development/insurance-and-risk-financing
[108] https://www.mas.gov.sg/development/foreign-exchange
[109] https://www.bis.org/statistics/rpfx22.htm
[110] Refer page 15, https://www.tamimi.com/wp-content/uploads/2018/01/Setting-Up-in-DIFC.pdf

set out in brief below.[111]

a) **Banking Services:** NR investors can open bank accounts in DIFC-based banks, which offer a range of traditional banking services, including savings accounts, current accounts, fixed deposits, and foreign currency accounts. Due to its unique global positioning, DIFC is home to 17 of the world's top 20 private banks,[112] and offers a wide array of banking services to NR investors including but not limited to, corporate banking, lending, trade finance, crowdfunding platforms, cash management and services supporting corporate treasuries.[113] DIFC is also an established hub for investment banks providing financial services such as M&A and advisory services, project finance, international loan securitisations and other similar services.[114]

b) **Wealth Management:** DIFC provides access to wealth management services to NR investors, including but not limited to investment advisory, portfolio management, inheritance, and financial planning.[115]

c) **Capital Markets:** NR investors can participate in the capital markets through brokerage services provided by DIFC-based firms. The debt capital market in DIFC provides NR investors with access to financial products such as bonds, floating rate notes, medium-term notes, and Sukuk (i.e. a class of Sharia-compliant securities).[116]

   NR investors can access a variety of ETFs listed on the DIFC stock exchange. ETFs provide diversified exposure to different asset classes and sectors. Over and above ETFs, there are other alternative investment options that can be traded on NASDAQ Dubai such as mutual funds, derivatives, and REITs.[117]

d) **Direct investment in Private Equity and Venture Capital:** DIFC Innovation Hub has more than 600 (six hundred) growth-stage technology firms, innovation companies, digital labs, venture capital firms, and other start-up entities,[118] which act as an attractive direct investment opportunity for NR investors.

e) **Islamic Finance:** DIFC is a hub for Islamic finance, offering Sharia-compliant financial products and services, including Islamic banking, sukuk,[119] (Islamic bonds) and Islamic investment funds.

f) **Insurance and Reinsurance:** NR investors can access a variety of insurance solutions within DIFC, including life insurance, property insurance, liability insurance, and other specialized coverages. Insurance companies operating in DIFC offer policies tailored to diverse risks such as cyber, trade, political, and financial risks which provide coverage against unexpected events and unforeseen circumstances.[120] The popular insurance products available in DIFC are Whole Life Plan, Term Plans, Critical Illness Plans, Capital Guarantees, Investment Embedded Life Insurance Structures, Jumbo Insurance Structures, International Private Medical Insurance, etc. The regulatory framework within the DIFC ensures that insurance products adhere to international standards and are best aligned with investors' vision by placing no up-front restrictions.[121] DIFC is witnessing gross written premiums of USD 2 (two) billion annually.[122]

[111] Ibid.
[112] https://www.difc.ae/business/establish-a-business/banking-and-capital-markets#private-banking
[113] https://www.difc.ae/business/establish-a-business/banking-and-capital-markets#banking.
[114] https://www.difc.ae/business/establish-a-business/banking-and-capital-markets#investment-banking.
[115] https://www.difc.ae/business/establish-a-business/wealth-and-asset-management.
[116] https://www.nasdaqdubai.com/members/asset-classes.
[117] https://www.nasdaqdubai.com/members/asset-classes.
[118] https://www.difc.ae/business/establish-a-business/venture-capital.
[119] https://www.dib.ae/business/products-services/sukuk.
[120] https://www.difc.ae/business/establish-a-business/insurance-reinsurance-and-captives.
[121] Ibid.
[122] Ibid.

g) **Real Estate Investment:** DIFC offers a range of real estate financial products that cater to the diverse needs of NR investors including investments in commercial and residential properties, as well as (**"REITs")** listed on the DIFC stock exchange. REITs allow investors to participate in income-generating real estate assets without directly owning them, enhancing liquidity and flexibility in real estate portfolio management.

I. Overview – Financial Products in GIFT IFSC

The key players operating in GIFT IFSC include international stock exchanges, IFSC banking units, brokers & intermediaries, insurers, and asset managers.

We have provided a brief overview of the financial products offered in GIFT IFSC as on December 2023 below:

A. Banking Services

Indian banks and foreign banks,[123] can establish a banking unit in GIFT IFSC after procuring the requisite license or permission from the IFSCA.[124] These banking units may be an IFSC Banking Unit or an IFSC Banking Company (collectively referred to as **"Banking Units"**). Foreign banks that do not have a banking presence in India will need to comply with the additional requirements specified by IFSCA before establishing Banking Units in GIFT IFSC.[125] The IFSCA (Banking) Regulations, 2020,[126] prescribe certain permissible activities that may be undertaken by the Banking Units licensed to operate within GIFT IFSC. A Banking Unit may conduct business in foreign currency as may be specified by IFSCA.[127] Banking Units may open accounts in the specified foreign currencies for individuals, corporates or entities, residents in India or NRs.[128]

Permissible Activities

i. **Acceptance of Deposits and custodian of assets/securities:** Banking Units are permitted to deal only in a freely convertible foreign currency except for the purposes permitted for dealing in INR.[129] Banking Units are permitted to operate current account, savings accounts, and term deposit account, in any specified foreign currency, by an individual client. However, current account and term deposit accounts can be opened for persons other than individual clients as well in any specified foreign currency**.** Banking Units may offer structured deposits to retail and professional clients. Banking Units may also operate as a custodian of assets and securities. Banking Units may also be permitted to offer floating rate deposits and notice deposits.[130]

ii. **Borrowing from and lending:** Banking Units can freely borrow from or lend to other Banking Units, their parent banks, or banks located outside IFSC. A Banking Unit is permitted to lend in foreign currency denominated as well as INR-denominated loans, in any form, to persons resident in India and persons resident outside India. Lending is further classified into retail and corporate. Retail lending refers to lending to an individual client. Corporate lending refers to lending to a client other than an individual.[131]

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[123] Regulation 2(d), IFSCA (Banking) Regulations, 2020.
[124] established under sub-section (1) of Section 4 of the International Financial Services Centres Authority Act, 2019.
[125] Regulation 3, IFSCA (Banking) Regulations, 2020.
[126] As amended up to 14th July 2023.
[127] Regulation 10, IFSCA (Banking) Regulations, 2020.
[128] Regulation 11, IFSCA (Banking) Regulations, 2020.
[129] Ibid.
[130] https://vinodkothari.com/2021/05/banking-finance-units-in-ifsc-a-regulatory-overview/.
[131] The IFSCA Banking Handbook COB Direction- Version 5.0, page no.6 and 12 https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Ftha-ifsca-banking-handbook-cob-direction-version-5-010072023044642.pdf&Title=The%20IFSCA%20Banking%20Handbook%20COB%20Direction-%20Version%205.0&Date=10%2F07%2F2023.

iii. **Operating as an Investment Banker:** Banking Units may act as an investment banker and undertake activities undertaken by an investment banker as defined in the relevant regulations.[132] Banking Units desirous of offering investment banker services in IFSC are required to seek an additional registration with IFSCA.[133]

iv. **Providing trust services:** Banking Units may provide trust services. When offering trust services, an IBU is required to uphold appropriate governance and professionalism standards as well as abide by all applicable laws, rules, and regulations.

v. **Equipment leasing and Hire purchase:** Banking Units can enter into a hire and purchase agreement wherein the lessee can use equipment for a specified period in exchange for periodic payments to the lessor based on the executed contract.

vi. **Referral Services:** Banking Units may undertake the activity of referral services. For this purpose, the Banking Units can enter into arrangements with the third-party financial product or service provider for referring the client of the Banking Units to such third party. "Referral Service" refers to the Banking Unit's practice of referring its clients or the clients of its parent bank as potential customers (or "leads") to a financial product or financial service provider to provide them with the financial product(s) or financial service, by an arrangement with the financial product or provider.

vii. **Factoring and Forfaiting service:**[134] Banks are permitted to provide factoring and forfaiting services. A factoring service is a transaction or transactions that are entered into based on a contract that is reached between a party (the supplier) and a Banking Unit (the factor), whereby the supplier assigns to the factor receivables from sales contracts that the supplier enters into with its customers (the debtors).

The act of the Banking Units paying an exporter in cash in exchange for the exporter giving up the right to be paid for the goods and services they have provided to the importer is known as forfaiting.

viii. **Derivative Products:** Banking Units are permitted to deal in a variety of derivative products. They can enter into over-the-counter derivative contracts. Market makers,[135] are permitted to offer derivatives to the following asset classes.[136]

i. **Foreign Exchange:** Foreign exchange derivatives include outright forwards, foreign exchange swaps, currency swaps, and currency options.

ii. **Interest rate:** Interest rate derivatives include forward rate agreements, interest rate swaps, interest rate options, interest rate caps, and interest rate floor.

iii. **Credit:** Credit derivatives include forwards, credit event/default swaps (single name and basket), and options.

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[132] IFSCA (Capital Market Intermediaries) Regulations, 2021.
[133] Under the provision of Chapter II of the International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021.
[134] The IFSCA Banking Handbook COB Direction- Version 5.0.
https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Ftha-ifsca-banking-handbook-cob-direction-version-5-010072023044642.pdf&Title=The%20IFSCA%20Banking%20Handbook%20COB%20Direction-%20Version%205.0&Date=10%2F07%2F2023.
[135] Market maker is defined to mean a financial institution (as defined in section 3(1)(c) of the IFSCA Act,2019) that undertakes derivatives on its own account and at his own risk and at prices quoted by him and who is so designated by the Authority.
[136] The IFSCA Banking Handbook COB Direction- Version 5.0, Module no. 13 and Version 2.0 page 94,95.

iv. **Offshore derivative instruments ("ODI"):** ODIs include ODIs on Indian Government Bonds and ODIs on State Development Loans.

In addition to the above, market makers are permitted to offer structured derivates to their professional clients and with their counterparties. Structured derivative products are instruments that are a combination of the one or more products listed above and cash instruments.

ix. **Underwriting and Investment advisory service:** The Banking Units are permitted to enter into underwriting arrangements, and they are also permitted to act as an investor advisor. As an investment advisor, Banking Units are permitted to undertake all activities defined in the IFSCA (Capital Market Intermediaries) Regulations, 2021.[137]

x. **Trading and Clearing member of a stock exchange:** The Banking Units can join the interest rate, currency, and gold/precious metal derivatives trading segment, as well as the clearing segment of any recognized stock exchange under the IFSCA, provided that the banking company, of which the Banking Unit is a branch, meets the minimum prescribed capital requirement.[138]

xi. **Acting as a portfolio manager:** Banking Units are permitted to act as a portfolio manager and can undertake all activities undertaken by a portfolio manager.[139]

xii. **Undertaking transfer of loan assets:** Banking Units have the ability to transfer loan assets bilaterally or through standard loan participation agreements like the Master Risk Participation Agreement (MRPA).[140]

xiii. **Undertaking negotiation of letters of credit of its constituents:** Banking units are permitted to negotiate letters of credit of its constituents. For the purposes of this activity, a constituent is any individual who has been granted a regular credit facility by the Banking Unit or any branch of an Indian, foreign, or both bank that is a member of the bank/bank group to which the Banking Unit belongs.

xiv. **Offering Payment services and participating in an authorized payment system:** Banking Units may act as a system participant for an authorized payment system and is permitted to offer payment services as defined in the regulation on payment services issued by IFSCA.[141]

xv. **Operate as a Foreign Portfolio Investor ("FPI") or as an Eligible Foreign Investor ("EFI"):** Banking Units set up in the IFSC are permitted to invest in Indian securities under FPI route. Banking Units are required to obtain registration as an FPI. Banking Units may also invest in securities issued in IFSC

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[137] The IFSCA Banking Handbook COB Direction- Version 5.0, page 14 and 15 https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Ftha-ifsca-banking-handbook-cob-direction-version-5-010072023044642.pdf&Title=The%20IFSCA%20Banking%20Handbook%20COB%20Direction-%20Version%205.0&Date=10%2F07%2F2023.

[138] The IFSCA Banking Handbook COB Direction- Version 5.0 https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Ftha-ifsca-banking-handbook-cob-direction-version-5-010072023044642.pdf&Title=The%20IFSCA%20Banking%20Handbook%20COB%20Direction-%20Version%205.0&Date=10%2F07%2F2023.

[139] As defined in the Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021.

[140] The IFSCA Banking Handbook COB Direction, Version 5.0. https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Ftha-ifsca-banking-handbook-cob-direction-version-5-010072023044642.pdf&Title=The%20IFSCA%20Banking%20Handbook%20COB%20Direction-%20Version%205.0&Date=10%2F07%2F2023.

[141] The IFSCA Banking Handbook COB Direction- Version 5.0, page no. 19 https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Ftha-ifsca-banking-handbook-cob-direction-version-5-010072023044642.pdf&Title=The%20IFSCA%20Banking%20Handbook%20COB%20Direction-%20Version%205.0&Date=10%2F07%2F2023.

subject to their internal guidelines.[142]

xvi. **Acting as FX Prime Brokerage ("FXPB"):** FXPB refers to a service offered by the Banking Unit wherein a trading line of an FX Prime Broker (the Banking unit) may be used by a designated party (the Banking Unit's client) to conduct foreign exchange transactions with an executing dealer (a banking unit or bank outside of the IFSC that is not the FX Prime Broker).[143] Banking Units are permitted to provide this service to residents as well as persons resident outside India. FXPB service may be provided for all the products including spot, forwards, swaps, options, etc.[144]

B. Insurance Services

The IFSCA (Registration of Insurance Business) Regulations 2021,[145] prescribe the process of registration and operations of insurers and re-insurers in GIFT IFSC. An applicant for these regulations includes an insurer registered with the Insurance Regulatory and Development Authority of India (**"IRDAI"**) in accordance with the Insurance Act, 1938 which may be any Indian and foreign insurer or Indian and foreign re-insurer, or a branch office of foreign insurer, etc.[146] The IFSCA (Registration of Insurance Business) Regulations, 2021 prescribe the permissible activities of an International Financial Service Centre Insurance Office ("IIO"). These activities include:

(a) life insurance business,

(b) general insurance business,

(c) health insurance business and

(d) the re-insurance business.[147]

Permissible activities in detail are mentioned below:

(a) **Direct Insurance:** A registered IIO can undertake direct insurance business.[148] They can conduct their business with residents, NRs and NRIs as permitted by IFSCA. The opportunities for direct insurers transacting general insurance business are:[149]

i. Proving coverage for Indian interest/risk abroad i.e., properties, assets of wholly owned subsidiary, joint ventures of India headquartered companies.

ii. Providing insurance for properties situated in India.

iii. Insurance in relation to offshore risks of exporters and importers.

iv. Health cover for Indian resident subject to liberalised remittance scheme limits and for relatives of Indian residents.

v. Inward reinsurance.

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[142] Ibid.
[143] The IFSCA Banking Handbook COB Direction- Version 5.0, Module no. 14 https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Ftha-ifsca-banking-handbook-cob-direction-version-5-010072023044642.pdf&Title=The%20IFSCA%20Banking%20Handbook%20COB%20Direction-%20Version%205.0&Date=10%2F07%2F2023.
[144] Ibid.
[145] As amended up to 4th January 2022.
[146] Regulation 3(1)(b), IFSCA (Registration of Insurance Business) Regulations, 2021.
[147] Regulation 10, IFSCA (Registration of Insurance Business) Regulations, 2021.
[148] Chapter IV, regulation 13, IFSCA (Registration of Insurance Business) Regulations, 2021.
[149] https://ifsca.gov.in/document/Developments/IFSCA_Insurance_Flyer.pdf.

vi. The opportunities for direct insurers transacting life insurance business are:[150]

a. risk coverage for NRs, overseas citizens of India, person of Indian origin.

b. risk coverage for NR employees of Indian companies; and

vii. Alternate risk transfers and others.

(b) **Reinsurance-** A registered IIO is permitted to accept re-insurance business from within the GIFT IFSC, in relation to risk emanating from outside India.[151] They may also accept reinsurance business from the insurers operating in the DTA as per the regulations notified by the IRDAI. The Reinsurance business includes providing reinsurance support to IIOs in IFSC and retrocession support to reinsurers in IFSC. It also includes providing reinsurance and retrocession support to direct insurers based in India and outside India.[152] The IIO may transact reinsurance in segments like fire (other than oil and energy), marine hull, marine cargo, aviation, trade credit, liability, life (including health insurance policies issued by life insurers), motor, crop, oil and energy and any other segment as may be specified by IFSCA from time to time.[153]

(c) **Insurance Intermediary Services:** As per the IFSCA (Insurance Intermediary) Regulations, 2021 IIOs are permitted to undertake insurance intermediary business within the IFSC and also from outside India. Insurance intermediaries can take registration for any one of the categories, namely:

1. **Insurance Distributor:[154]**

i. Composite Broker: IIOs registered as composite brokers are permitted to perform the activities of composite broker. Corporate broker means an insurance broker registered with the Authority who for a remuneration and/or a fee, solicits and arranges insurance and/or re-insurance for its clients with insurers and/or reinsurers; and/or provide claims consultancy, risk management services or other similar services, permitted under these regulations.[155]

ii. Corporate Agent: IIOs registered as corporate agents are permitted to perform the functions and activities of corporate agent for instance providing assistance and guidance in the event of a claim etc. Corporate agent means a person registered with the Authority who undertakes solicitation and servicing of insurance business.[156]

iii. Direct Broker: IIOs registered as direct broker are permitted to perform the activities of a direct broker. Direct broker means an insurance broker registered with the Authority who for a remuneration and/or a fee, solicits and arranges insurance business for its clients with insurers, and/or provide claims consultancy, risk management services or other similar services, permitted under these regulations.[157]

iv. Reinsurance Broker: IIO registered as reinsurance broker is permitted to perform the activities of reinsurance broker or composite broker.

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[150] Ibid.
[151] Ibid.
[152] Ibid.
[153] International Financial Services Centres Authority (Re-insurance) Regulations, 2023.
[154] IFSCA (Insurance Intermediary) Regulations, 2021.
[155] Clause (g), sub-regulation (1) of Regulation 3 of IFSCA (Insurance Intermediary) Regulations, 2021.
[156] Clause (h), sub-regulation (1) of Regulation 3 of IFSCA (Insurance Intermediary) Regulations, 2021.
[157] Clause (i), sub-regulation (1) of Regulation 3 of IFSCA (Insurance Intermediary) Regulations, 2021.

2. **Insurance claim service provider:**[158]

i. Surveyor and loss assessor;

ii. Third party administrator.

The third-party administrator and surveyor and loss assessor registered as insurance intermediaries are not permitted to render services for the policies other than those issued by an IIO and an insurer domiciled outside India. However, a third-party administrator can service foreign travel policies and health policies issues by Indian insurers covering medical treatment or hospitalization outside India.

(d) **Other activities**- An IIO can render such other insurance or re-insurance services as may be specified by IFSCA, subject to obtaining prior approval.[159]

C. Capital Markets

GIFT IFSC has emerged as a prominent financial hub, offering a diverse range of capital market products and services.[160] Within the GIFT IFSC, a comprehensive framework is in place to facilitate various financial activities, in compliance with regulations under both Indian[161] and foreign jurisdictions.[162]

i. **Equity and Derivatives Trading:** One of the key offerings in the GIFT IFSC is the trading of equity and derivative instruments. This includes Indian Single Stock Derivatives, equity derivatives in the shares of foreign companies and index derivatives. Trading is conducted on the recognized stock exchanges operating in the IFSC namely, INX Ltd,[163] and NSE International Exchange IFSC Ltd. (NSE IX) ("**IFSC Exchanges**").[164]

ii. **Depository Services:** Registered Indian depositories or regulated foreign depositories, can establish subsidiaries in the GIFT IFSC. These subsidiaries can provide depository services, including the holding and transfer of securities.[165]

iii. **Debt Securities Issuance and Trading:** The IFSC supports the issuance and trading of various debt securities on the IFSC Exchanges, including foreign currency bonds, Masala bonds, green bonds, high yield bonds and Sukuk.[166]

iv. **International Bullion Exchange (IIBX):**[167] IIBX at GIFT IFSC offers a transparent electronic trading platform that enables the trade of LBMA and UAE Good Delivery-approved gold in varying weights and purities.

[158] Clause (6), Regulation 8, IFSCA (Insurance Intermediary) Regulations, 2021.
[159] Ibid.
[160] https://www.indiainx.com/static/capitalmktFAQ.aspx.
[161] Subject to the SEBI Act 1992, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Depositories Act, 1996 (22 of 1996), provisions of Companies Act, 2013 administered by SEBI.
[162] A country other than India whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral MoU (IOSCO's MMOU) or a signatory to bilateral MoU with SEBI and not blacklisted by Financial Action Task Force.
[163] https://www.indiainx.com/static/giftcity.aspx#.
[164] https://www.nseix.com/.
[165] https://www.giftsez.com/documents/FAQs-GIFT_City_IFSC_Capital%20Markets.pdf.
[166] https://www.indiainx.com/static/listing_debt.aspx.
[167] https://www.iibx.co.in/.

D. Funds

In the GIFT IFSC, the fund management industry has flourished, aiming to become a preferred global jurisdiction. With a competitive tax regime and cost-effective operations, GIFT IFSC has attracted 65 (sixty-five) Fund Management Entities ("**FMEs**") as of March 31, 2023, collectively raising over USD 13 billion.[168]

i. **Fund Management Activities:** FMEs in the GIFT IFSC are permitted to cater to both retail and non-retail investors. FMEs can launch retail schemes (including Mutual Funds and Exchange Traded Funds), non-retail schemes (Alternative Investment Funds), Venture Capital Schemes, Angel Funds, Social Impact Funds, REITs/InvITs (public and privately placed), and Family Investment Funds.

ii. **Portfolio Management Services:** FMEs are permitted to provide Portfolio Management Services.

E. Finance Companies

Finance companies/units ("**FCs**") in GIFT IFSC offer non-banking financial intermediary services. Except from raising public deposits, these entities are allowed to engage in activities that are identical to those that are authorised for IBUs. This enables FCs to complement Banking Units offerings in the financial services sector. The IFSCA (Finance Company) Regulations 2021,[169] include regulations for FCs in the areas of corporate governance, minimum owned fund, and prudential standards.[170] The objective of the regulations is to provide the entities to undertake non-banking business as well as to bring entities under the regulation net which were not covered under any specific regulation.

The permissible activities are classified into core and non-core activities. As a permitted core activity, a finance company can lend in the form of loans, commitments, and guarantees, securitisation, and undertake investments, including subscribing, acquiring, holding, or transferring securities or such other instruments, as may be permitted by the Authority.[171] As a permitted non-core activity, a finance company can undertake activities that include merchant banking trusteeship services, investment advisory, portfolio management services, operating lease, etc.[172]

[168] https://ifsca.gov.in/Document/ReportandPublication/ifsca-annual-report-2022-23_english10082023064856.pdf.
[169] As amended upto 1st July, 2022.
[170] IFSCA Annual Report 2022-23 https://ifsca.gov.in/ReportPublication/index/zcGvy-Iqfcg=.
[171] Regulation 5(ii) of International Financial Services Centres Authority (Finance Company) Regulations, 2021.
[172] Regulation 5(iii) of International Financial Services Centres Authority (Finance Company) Regulations, 2021.

II. Recommendations on the investment / business growth opportunities for non-residents in IFSC based on comparison with other IFCs

1. Insurance Sector

a. Taxation of Income from Insurance Policies:

Background: Under the present Singapore tax laws, proceeds of a personal life insurance policy are not subject to income tax.[173] Similarly, under the prevailing laws of Hong Kong, returns on investments are not subject to capital gains tax. The investment returns generated by the underlying investment funds of the investment linked policies will normally not be taxable.[174] The tax framework in both Singapore and Hong Kong is also in line with the general principle of all IFCs - that the jurisdiction does not have the right to tax unless the income is sourced in the jurisdiction in which the financial centre is located.

Legal Consideration: GIFT IFSC offers tax relaxation such as exemption from capital gains tax in relation to income accruing to NRs and NRIs in various financial sectors like fund management, aircraft and ship leasing and capital markets.

i. Section 47(viiab) of the Income Tax Act, 1961 ("**ITA**") exempts any transfer of global depository receipts, rupee denominated bonds of an Indian company, derivatives, or other specified securities as may be notified by the Central Government made by NRs on recognised stock exchange (RSE) in IFSC and where the consideration for such transaction is paid or payable in foreign currency, from capital gains tax. The Central Board of Direct Taxes (**"CBDT"**) has notified,[175] certain securities, such as, foreign currency denominated bonds, unit of a mutual fund, unit of a business trust, foreign currency denominated equity shares of a company, and units of alternative investment trust listed on a recognised stock exchange located in an IFSC would also be eligible for the exemption from capital gains tax under Section 47(viiab) of the ITA.

   Further, income received by an NR from a portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such NRs, in an account maintained with an IFSC Banking Unit to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India, is exempt from tax.[176]

ii. Any income which accrues or arises to or is received by an NR as a result of transfer of non-deliverable forward contracts, offshore derivative instruments, or over-the-counter derivatives entered into with an offshore banking unit ("**OBU**") of an IFSC is exempt from tax; and any income distributed from such OBU (subject to the OBU having already paid tax under section 115AD on such income),[177] is also exempt from tax.

iii. Section 10(4D) of the ITA exempts the income accrued or arisen to or received by a Category-III AIF in IFSC as a result of transfer of the capital asset, on RSE located in IFSC where consideration for such transfer is paid in convertible foreign exchange, or as a result

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[173] https://www.iras.gov.sg/taxes/individual-income-tax/basics-of-individual-income-tax/what-is-taxable-what-is-not/gains-from-sale-of property-shares-and-financial-instruments, https://www.lia.org.sg/media/1237/mu-2218-lia-guidelines-on-pi-cp-and-bpd-mu2218-sentzip.pdf).

[174] https://www.ia.org.hk/en/supervision/reg_ins_intermediaries/files/12.sn-IL-2017_eng.pdf.

[175] Notification S.O. 986 (E) [NO. 16/2020/F.NO. 370142/22/2019-TPL], dated March 5, 2020.

[176] Section 10(4G) of the ITA.

[177] Section 19(4D) of the ITA.

of transfer of securities[178] or any income from securities issued by a non-resident[179] and where such an income otherwise does not accrue or arise in India which is chargeable under the head "profits and gains from business and profession" to the extent such income accrued or arisen to, or is received in respect of units held by a NR. This exemption is available only to Category-III AIF located in IFSC of which all units are held by NRs other than units held by sponsor or manager.

iv. Interest income received by an NR from a unit located in IFSC is exempt from tax.[180]

The general principle for all other IFCs is that NRs investing in products offered by entities set up in the relevant IFC are not subject to local taxation. While the ITA pursuant to sections 10(4D), 10(4E), 10(4F), 10(15)(viii), 10(15)(ix), 47(viiab) has provided a similar tax framework for other financial products, no such exemptions are provided in relation to income earned from insurance products.

Recommendation: Amounts received by NR and NRI investors from all insurance policies including pension unit linked retirement plans, life insurance, and health insurance policies issued by the IIOs at GIFT IFSC should be exempt from tax. For this purpose, the CBDT may notify that amount received by NR/NRI investors from all insurance policies issued by the IIOs at GIFT IFSC should be exempt. CBDT may notify a list of insurance policies on which the exemption may be applicable.

Concerned Authority: CBDT

2. Capital Market

a. Tax-exemption on dividend income:

Background: The Finance Act, 2020 abolished and repealed the Dividend Distribution Tax from April 1, 2020. As a result, dividends are now taxable in the hands of the shareholders and investors. Hence, in case an NR and NRI investor receives income in the form of dividend, they are required to pay taxes on the same and are also required to obtain PAN and file returns in India. As mentioned above, the Government of India has provided several tax incentives/exemptions on capital gains in IFSCs. The tax incentives inter alia include exemption from capital gains tax on transfer of certain notified securities made by NR and NRIs on recognized stock exchange in IFSC from capital gains tax. However, the dividend income, if any, arising in the hands of NR and NRI shareholders, will be taxable in India. Further, generally NR and NRI investors are exempt from obtaining PAN and filing returns in India. Hence, taxing dividends adds extra burden on the NR and NRI investors in terms of compliances.

Financial centres such as DIFC do not impose withholding tax on dividends, interest or royalties paid to NR and NRIs.[181] Hence, considering what is ordinarily seen in global financial centres, wherein dividends are exempt in the hands of NR and NRIs, similar approach should be adopted in GIFT IFSC making it at par with other IFCs.

Recommendations: This Working Group recommends exempting tax / withholding tax on dividend arising from listed securities.

[178] Other than shares in a company resident in India
[179] Not being a PE of resident in India
[180] Section 10(15)(ix) of the ITA.
[181] https://hzlegal.ae/taxation-laws-and-regulations-in-difc-understanding-financial-obligations/.

Concerned Authority: CBDT

3. Funds

a) Minimum corpus to start a Restricted Scheme Non-Retail investing in only listed securities:

Background: In the context of a Restricted Scheme Non-Retail investment fund, focused solely on listed securities, certain challenges and considerations have emerged in GIFT IFSC. The requirement to accumulate a substantial corpus of 5 million USD under the Regulation 35 of the FM Regulations,[182] before commencing investments is a hurdle for NR and NRIs investing in listed securities through a GIFT IFSC investment fund. While an investor may be ready to invest in the GIFT IFSC fund on day one, the fund is not permitted deploy such investment until it has received capital commitment of at least USD 5 Million. The time period between receiving a commitment from the first investor to when the fund has attained a size of USD 5 million results in missed opportunities for capital appreciation, particularly in a volatile market where listed securities are subject to mark-to-market valuation. The immediate deployment of funds upon receipt is crucial, especially considering the time-sensitive nature of market movements.

Legal Consideration: Regulation 35 of the FME regulations provides that the minimum size of a restricted scheme to be USD 5 million.

Recommendation: To address the above-mentioned concerns, this Working Group has proposed the following amendment to Regulation 35 of the FM Regulations:

a. Proposal 1: To permit a fund having a strategy of investing in only listed securities to operate without the minimum corpus requirement by waiving off the five million threshold criteria.

b. Proposal 2: To allow fund managers a window of six months after launch meet the USD 5 million requirement, in case of inability to meet the requirement, the fund can be wound up.

Concerned Authority: IFSCA

b) Taxation of Family Investment Fund (FIF):_

Background: To encourage the setting up of FIFs in the IFSC, IFSCA has introduced certain relaxations under the FM Regulations. As per the FM regulations, an FIF can be set up in the IFSC as a company, trust or a limited liability partnership. The FM Regulations specifically allow FIFs to invest in a wide array of assets, including but not limited to unlisted, listed or to be listed securities, debt securities and derivatives including commodity derivatives. While private equity/venture capital funds set up as restricted schemes (non-retail) under the FM Regulations are provided a special beneficial taxing regime under the ITA, such beneficial regime has not been extended to FIFs. Accordingly, an FIF's taxation is determined by whether it is set up as a trust, LLP, or company. For example, in case a FIF is set up as a company, income earned by the FIF is taxed in the hands of the company and any distributions by way of dividends are taxed in the hands of the shareholders. However, since FIFs typically function in a manner similar to private equity funds, they should be afforded similar tax incentives.

[182] Regulation 35 of the FM Regulation: (1) In case of an open-ended scheme, the maximum investment in securities of unlisted companies should not exceed twenty- five percent (25%) of the corpus of the schemes. (2) The minimum size of the restricted schemes shall be USD 5 Million. (3) Restricted schemes may invest in its associate subject to the prior approval of seventy-five percent (75%) investors in the scheme by value.

Legal Considerations: Under Regulation 30 of the FM Regulations, Restricted Schemes are divided into three categories, similar to the AIF Regulations, as Category I/II/III AIFs depending on the type of investments sought to be made. Restricted schemes launched by registered FMEs investing in start-up or early-stage ventures or social ventures or infrastructure or other sectors or areas which the government or regulators consider as socially or economically desirable including venture capital funds, SME Funds, social venture funds, infrastructure funds, ESG funds, special situation funds are required to file before the authority as category I AIF.

Restricted schemes launched by registered FMEs for various investment strategies for investment for undertaking diverse or complex trading strategies including investment in listed or unlisted derivatives and for permitted investments under longevity finance are required to file before the authority as category III AIF.

Restricted schemes launched by registered FMEs for various investment strategies for investment in categories that do not fall under category I or III AIF are required to file before the authority as category II AIF.

The taxability of Category I and Category II AIFs is governed by Section 10(23FBA), Section 10(23FBB), Section 194LBB, and Section 115UB of the ITA. Category I and Category II AIFs have been accorded tax pass-through status under the ITA i.e., the income received by a unit-holder through the AIF will be chargeable to income-tax in the same manner as if it were the income arising to such unitholder directly by the unit-holder.

Unlike Category-I and Category-II AIFs which have been accorded a pass-through status under Section 115UB of the ITA, characterisation of income of Category-III AIFs has been dealt separately under ITA. Section 115AD of the ITA provides a special regime for taxation of income earned by category III AIFs by providing a flat rate of tax for income earned by Category-III AIFs (these relaxations apply only to the extent of income that is attributable to units held by NR investors). Further, as per Section 10(23FBC) of the ITA, any income accruing or arising to or received by unit holders from Category-III AIF or on transfer of units in Category-III IFSC AIFs has been exempted from tax.

As mentioned above, unlike other non-retail funds set up under the FM Regulations, the taxation of an FIF is not governed either under section 115AD or under section 115UB of the ITA which grants pass through status to all qualifying funds regardless of legal form. Instead, an FIF's taxation is determined by whether it is set up as a trust, LLP or company.

Recommendation: This Working Group recommends that the FM regulations should be amended to allow the flexibility to FIFs to be categorised as Category I or a Category II or Category III Alternative investment funds depending upon the investment strategy of the FIF.

Concerned Authority: IFSCA

c) Classification of income between "Income from Business" and "Capital Gains":

Background: There is currently some ambiguity with respect to the taxation of income arising from the sale of securities by an investment fund in IFSC. The issue is with respect to whether such income should be taxed as "Profit and Gains from Business and Profession" or "Income from Capital Gains". In 2014, the ITA was amended to expand the scope of the definition of "Capital Asset" under section

2(14) of the ITA to include any securities held by FPIs.[183] Accordingly, it was clarified that any income arising to such FPIs from the sale of securities should be treated and taxed as capital gains; however, no such clarity has been provided with respect to investment in the securities traded on RSE in IFSC by investment funds in IFSC.

The lack of clarity as to how income from the sale of securities held by an IFSC fund should be taxed creates an uncertain tax framework that neither aligns with global standards, nor encourages NR and NRI participation as such investors look for tax certainty when deciding in which jurisdiction to invest.

Legal Consideration: Section 2(14) defines capital asset to mean property of any kind held by an assessee, whether or not connected with his business or profession, any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and any unit linked insurance policy to which exemption under clause (10D) of section 10 does not apply on account of the applicability of the fourth and fifth provisos thereof.

The definition specifically excludes stock in trade held for the purpose of business and profession from the ambit of capital asset. Circular No. 6/2016 issued by the Ministry of Finance laid down certain instructions that the assessing officer shall take into account before holding whether the surplus generated from the sale of shares of other securities would be treated as capital gains or business income. The circular remains silent on the classification of gains from the sale of securities[184] held by funds.

Further, despite the amendment in the definition of 'Capital Asset' under Section 2(14) of the ITA, a notable gap remains in the regulatory framework, particularly for funds operating from GIFT IFSC.

Recommendation: To address this issue and to bring about much needed clarity, this Working Group recommends amending Section 2(14) of the ITA to explicitly include investment securities traded on RSE held by Foreign Institutional Investors or Investment Funds in IFSC in accordance with SEBI or IFSCA regulations.

The proposed amendment to Section 2(14) of the ITA could read as follows:

> "Section 2(14) of the ITA can be amended as follows (insertion in bold): "any securities held by a Foreign Institutional Investor **or *IFSC* Investment Fund** which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act or IFSCA Act."
>
> For the purpose of this section: -
>
> "Investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the

[183] The term' capital asset' has been defined in Section 2(14) of the Income-tax Act, 1961, means: Property of any kind held by an assessee, whether or not connected with his business or profession. Any securities held by an FII which has invested in such securities in accordance with the SEBI Regulations. Any unit-linked insurance policy to which exemption under Section 10(10D) does not apply on account of applicability of the *fourth and fifth proviso* [High premium equity oriented ULIPs].
[184] Circular No. 6/2016, available at: https://assets.learn.quicko.com/wp-content/uploads/2019/08/11122138/CBDT-Circular-No.-62016.pdf.

Securities and Exchange Board of India Act, 1992 (15 of 1992) or [regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made] under the International Financial Services Centres Authority Act, 2019 (50 of 2019)];

Concerned Authority: CBDT

d) Retail Scheme Taxation:

Background: The current taxation framework for Retail Scheme registered with IFSCA depends on the legal structure they adopt, leading to inconsistencies and uncertainties. Under the current framework, the special tax regime available for Category III Alternate Investment Fund registered with IFSC is not extended for a retail scheme registered and regulated by IFSCA. The FPI tax regime is only applicable to Retail Schemes with a strategy of investing in listed equity securities in India and registering as a FPI with SEBI, providing certain benefits. However, ambiguity exists regarding the taxation of income in the hands of Retail Scheme investors upon redemption or dividend distribution. This raises concerns about potential double taxation, once at the scheme level and again at the investor level.

Furthermore, currently, there is a relaxation provided to investors in Category I or II or a Category III specified fund registered with IFSCA from obtaining PAN in India, leading to significant ease of compliance burden for NRs. The said relaxation is not however extended to Retail Schemes.

Recommendation: In view of above, the committee members believe that there is a need for a more streamlined and comprehensive tax regime to address potential challenges and ensure fair treatment for investors. Accordingly, this Working Group proposes following three alternative proposals to address the existing gaps in the taxation of the Retail Scheme:

a. Proposal 1: To amend the definition of "Specified fund" under the ITA to include a Retail Scheme. This proposal aims to create taxation parity between Retail Schemes and Category III AIFs, enabling Retail Schemes to enjoy additional tax benefits and to prevent potential double taxation by leveraging specific exemptions for unit holders under section 10(23FBC) of the ITA.

   The key aspect of the recommendation include: (i) to extend the tax exemption applicable to specified funds; (ii) to apply tax rates for specified funds to Retail Schemes; (iii) to provide specific exemptions for income accruing, arising or received by unit holders from Retail Scheme or on the transfer of units in a Retail Scheme under Section 10(23FBC) of the ITA; and (iv) to extend the relaxation for obtaining PAN to foreign unit holders and filing return of income be extended to investors in Retail Schemes also.

b. Proposal 2: Alternatively, while in Proposal 1, an exemption is granted for income arising from the transfer of securities, excluding shares. If the underlying intention of the tax authorities is to confine such exemptions solely to funds with a focused strategy predominantly invested in equity shares and a proportionate exposure to debt securities, concerns may arise regarding the practicality of Proposal 1 in the context of a Retail Scheme emphasizing a debt-oriented strategy. In light of the above, the committee members have also made an alternative proposal to streamline the taxation structure by focusing on single-tier taxation at the Scheme level while concurrently providing a specific exemption for unit holders.

The key aspect of the recommendation by the Working Group for Proposal 2 includes (i) To provide a specific exemption for income accruing, arising, or received by unit holders from Retail Schemes or on the transfer of units in a Retail Scheme; (ii) To propose that all income earned by the Retail Scheme be subject to taxation at the Scheme level. For Retail Schemes with (FPI) licenses, follow the FPI tax regime, while other Retail Schemes will be taxed according to their legal structure at applicable rates; and (iii) to extend the relaxation for obtaining PAN to foreign unit holders and filing return of income be extended to investors in Retail Schemes also.

c. Proposal 3: The third alternative proposal, includes aligning the taxation of Retail Schemes with SEBI-registered Mutual Funds that mirror global best practices, providing a familiar and investor-friendly environment. Deducting taxes at the fund level during distribution or redemption reduces the compliance burden for investors, contributing to a more efficient and streamlined process. Standardizing the taxation framework for Retail Schemes with that of Mutual Funds brings consistency and clarity, fostering a conducive environment for investment.

The key aspects of the recommendation for Proposal 3 include: (i) To exempt the income of the Retail Scheme and tax the investors of the Retail Scheme at the time of distribution or exit from the Fund; (ii) Similar to SEBI registered Mutual Fund, any dividend income distributed to the investors should be taxed at applicable rates and capital gains on redemption of units of Retail Scheme should be taxed based on the type of Retail Scheme; and (iii) Retail Scheme to deduct tax at the time of distribution or redemption at the applicable rates and investors of Retail Scheme should be exempt from obtaining PAN and filing of return of income in India as the final tax on income is already deducted by the Retail Scheme.

Concerned Authority: CBDT

4. General Recommendations across all Financial Sectors

a. To organise awareness and outreach programmes overseas as well as undertake coordinated effort to ensure that REs actively broaden their product and service offerings to NR and NRIs.

Background: A comparison of the products and services offered in the five IFCs with those permitted to be offered in the GIFT IFSC reveals that the GIFT IFSC has a regulatory framework on par with global IFCs. With only a few exceptions (as set out below), the assessment of the Working Group is that entities set up in the GIFT IFSC are legally permitted to offer most if not all, the products and services offered in the leading IFCs. Moreover, the tax framework in most instances is also on par with global standards.

However, there are certain products which are widely prevalent in other IFCs which have not yet gained traction in the GIFT IFSC. Such products include structured financial products, retail funds (mutual funds and hedge funds), real estate and infrastructure funds, complex derivatives, cross-border wealth management services, fixed-income products like fixed coupon notes and inflation linked notes, and government bonds. The primary reason for entities in the GIFT IFSC to not offer such products is due to a lack of awareness, demand and market penetration.

Recommendation: In order to promote GIFT IFSC position and expand the pool of investors and customers, IFSCA should embark on a strategic initiative as follows:

a. IFSCA Awareness Campaign: IFSCA should launch a comprehensive awareness campaign to inform and educate the market about GIFT IFSC, in general.

b. Facilitation of GIFT IFSC Entities: IFSCA should actively facilitate and empower registered entities within the GIFT IFSC to broaden their product and service offerings.

- Specific letters should be dispatched to these entities, providing detailed information on the array of products and services enabled within the GIFT IFSC.
- A structured questionnaire should be sent to these entities, seeking insights into the products and services they currently offer, their plans for future offerings, and any obstacles or challenges hindering the enablement of certain products and services.

Concerned Authority: IFSCA and Regulated Entities

b. Regulatory Framework in GIFT IFSC for Payment Gateway Operators

Background: While GIFT IFSC offers various financial products and services including unit linked insurance policies and units of retail funds, however, unlike other IFCs like Singapore and DIFC, the GIFT IFSC lacks an effective and efficient payments landscape for retail customers/investors.

Payment gateway service providers that support multiple currencies and settlements are an invaluable tool for digital commerce and provide an efficient and customer-friendly mechanism by which overseas customers can make investments and subscribe to products and services. The introduction of such payment gateway service providers to the GIFT IFSC landscape will further boost growth and scale as opposed to restricting transactions to the current traditional payment mechanism of wire transfers which leads to delayed settlement time, inferior client experience, and missed investment opportunities. Non-availability of such critical financial market infrastructure makes the process of initiation, authorization, clearing, and settlement of retail transactions (for example life insurance premiums), cumbersome and onerous both on the part of financial service providers ("FSP") and its clients. This is considering the FSP has to rely on global Payment System Operations ("PSOs") and not all such PSOs are ordinarily willing to on-board a Merchant FSP which is based in a foreign jurisdiction (GIFT IFSC, India), and few global PSOs which are ordinarily willing to engage with Merchant (FSP), the cost of transactions is significantly high.

Legal Consideration: There are no prevailing rules/regulations/guidelines on retail payment systems and, hence, there are currently no ("PSOs") operating from and within GIFT IFSC. Indian payment gateway providers are not willing to tie up with entities in GIFT IFSC on account of the non-availability of merchant onboarding guidelines by the IFSCA or the RBI. Similarly, global payment gateway providers are not willing to tie up with entities in GIFT IFSC on account of the non-availability of retail payment and settlement architecture in US dollars.

Recently, the IFSCA (Payment Services) Regulations, 2024 were notified in the official gazette on January 30, 2024. The regulations lay down the framework for entities providing the following payment services to seek authorisation from IFSCA:

- Account issuance service (including e-money account issuance service)
- E-money issuance service
- Escrow service
- Cross border money transfer service

- Merchant acquisition

However, the recently notified regulations do not cover payment gateway operators within its ambit. Further, the current framework for FinTech entities in the IFSCs applies to all eligible domestic or foreign entities, desirous of obtaining authorization as FinTech Entity (FE) from IFSCA, for participating in or undertaking one or more of the permissible activities under this framework. The objective of the FinTech framework is to promote advances/innovative technological solution entities. The framework has laid down an illustrative list of permissible FinTech and Techfin areas/activities linked to financial services regulated by IFSCA. Payment gateway operators do not squarely fall within the ambit of the permissible areas as provided under the Fintech framework.

Considering the lack of clarity in the existing frameworks and due to the nature of the activities of a payment gateway operator, a distinct and dedicated regulatory framework needs to be issued by IFSCA.

Recommendation: This Working Group recommends that a distinct and dedicated regulatory framework needs to be issued by IFSCA. The regulatory framework should be issued to:

(a) enable both Indian and offshore gateway providers to offer their services to entities set up in the GIFT IFSC; and

(b) enable payment gateway providers to set up their own entity in GIFT IFSC and operate within GIFT IFSC.

This will allow payments from NRs and NRIs for all retail products such as insurance premiums, listed shares, etc. in an efficient manner.

Concerned Authority: IFSCA

c. Passporting:[185]

Background: The financial world is characterized by diverse regulatory regimes across jurisdictions, posing challenges for seamless cross-border marketing and distribution of investment products. In an ideal world, the regional managers should be able to freely offer their local products to investors in other countries on a level playing field. However, due to differences in regulatory regimes of different countries, the financial centres often have to comply with multiple standards across jurisdictions, making it difficult to facilitate cross-border marketing and distribution of financial products to NR and NRI.

Passporting is a regulatory mechanism designed to streamline cross-border marketing and distribution of financial products across different jurisdictions. Essentially, it allows financial institutions or fund managers, authorised and regulated in one jurisdiction, to offer their products or services in another jurisdiction without the need for separate authorization from the regulatory authorities in the target jurisdiction. The concept of passporting aims to create a more efficient and level playing field for financial institutions and fund managers by reducing barriers to entry and eliminating the need for duplicate regulatory approvals.

Several global regions have successfully implemented passporting frameworks for investment

[185] Investment committee report on investment funds, 2022, available at: https://ifsca.gov.in/ReportPublication/index/aadg9ruDI%20M=.

funds, each with its unique characteristics and benefits. In the European Union (EU), the AIFMD (created a single marketplace within the EU for marketing alternative investment funds (AIFs), where the Non-EU AIFMs can also access the EU market through either the EU passport or national private placement regimes, with equivalence requirements ensuring compliance with AIFMD provisions or equivalent rules in non-EU jurisdictions. The advisory states that "ESMA assessed six jurisdictions – Guernsey, Hong Kong, Jersey, Singapore, Switzerland and the United States of America (USA) – who were selected based on a number of factors including the amount of activity already being carried out by entities from these countries under the NPPRs, EU national authorities' knowledge and experience of dealing with their counterparts and the efforts by stakeholders from these countries to engage with ESMA's process."[186]

Recommendations: In the afore-mentioned context, this Working Group has recommended IFSCA to engage with ESMA to understand the factors and basis of selection for the extension of the EU Passporting regime and make steps towards the same. The precedence created by this ESMA act must be explored by the IFSCA for the benefit of the cross-border marketing of products and services offered by Res in GIFT IFSC

Concerned Authority: IFSCA

d. Dispute Resolution:

Background: The DIFC Courts administer a unique English-language common law system – offering swift, independent justice to settle local and international commercial or civil disputes as discussed in Chapter 2 in detail. The Courts, based in Dubai, provide certainty through transparent, enforceable judgments from internationally-recognised judges, who adhere to the highest global legal standards. Established as an English language common law court, the DIFC Courts originally had a limited jurisdiction, primarily focusing on civil and commercial cases within specific gateways. However, Dubai Law No. 16 of 2011 marked a transformative change, allowing parties to contractually agree in writing to refer their civil and commercial disputes to the DIFC Courts, irrespective of any direct connection to the DIFC.

The legal landscape within the GIFT IFSC also boasts a system for dispute resolution. However, considering the preferences of NR and NRIs, who seek a tested and efficient mechanism, it becomes imperative to evaluate the strengths of existing systems. The DIFC Courts, with their proven track record and alignment with international legal standards, offer a compelling model.

Recommendation: In order to become a jurisdiction of international repute GIFT IFSC needs to establish specialized courts in the GIFT IFSC to fast-track dispute resolution, which is independent, time-bound, digitally accessible, and cost effective for participants.

Concerned Authority: IFSCA and Ministry of Law and Justice

[186] Available at: https://www.esma.europa.eu/document/esma-advises-extension-aifmd-passport-non-eu-jurisdictions

I. Introduction to Onboarding Processes

For tapping the financial potential of NR and NRI, the first step is customer onboarding which refers to the process by which customer accounts are opened with the relevant REs. The parameters for customers interactions with the goods and services offered by the REs are established by means of this process. This process serves to protect against financial crimes including money laundering and financing of terrorism.

Financial Action Task Force ("FATF") was founded in 1989 with a mandate to provide guidelines and develop a consistent framework for countering money laundering and terrorist financing (ML/TF) activities[187]. Accordingly, FATF has recommended that all FATF compliant jurisdictions (which includes the five IFCs and India) enact regulations that ensure REs undertake appropriate customer due diligence ("CDD") processes.

Typically, REs in FATF compliant jurisdictions undertake the following steps in relation to the CDD process:[188]

a) Identification of Customer

b) Verification of Customer Documents

c) Signing/Attesting of Customer Documents

a) Identification of Customer

RE's are required to establish a customer's identity through reliable and independent sources or documents that provide details such as nationality, legal domicile, date of birth, contact details, etc. In situations where the customer is not an individual, REs procure additional information such as the name and ownership structure of the beneficial owner and the nature and purpose of the business relationship. This may also include details on the legal form, constitution and governing laws that apply to and bind the legal entity.

Further, REs are required to procure information on the intended use of the account or business relationship, the amount of assets involved in transactions, and the frequency or length of the business relationship, etc in order to evaluate the risk of ML or TF.[189] The higher the risk, the more stringent the CDD process.

b) Verification of Customer Documents

The RE is required to ensure the authenticity of the copies of customer documents it receives. This entails verifying that the evidence is not falsified, counterfeit, or misappropriated. This is done by comparing the identity information and evidence to an independent and reliable source such as

[187] Preamble of FATF recommendations 2012, https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf.
[188] https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Standards%20-%2040%20Recommendations%20rc.pdf.
[189] Risk variables under FATF recommendations 2012, https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf.

publicly available information from official sources and/or commercial databases to confirm that the data matches the customer records. Customer verification also enables REs to ascertain that the customer undergoing identity-proofing is related to the verified documents.

Generally, REs based on local regulatory requirements prescribe a set of documents as official documents that can be used to verify customer identity. Customer verification can also be done by requiring customers to either self-attest or obtain third-party attestations for each copy of the official documents submitted. The authentication process can be undertaken either directly by the RE or by any person or agency authorized by the RE to do so on its behalf.

c) Signing of Onboarding related Documents

Customers are required to sign onboarding application forms as well as provide signatures on the official documents for self-attestation. In a traditional onboarding process, such signatures (in the form of wet-ink signatures) are provided in the presence of an RE representative. However, in a digital onboarding process, these signatures can be provided digitally.

II. Types of onboarding[190]

A typical customer onboarding process consists of several stages. It begins with assessing customer needs, followed by due diligence which constitutes the identification and verification process, fulfillment of legal requirements and finally opening of the account and/or induction into the services. Globalization and stricter regulatory requirements have shifted the emphasis away from customer experience and towards the protection of financial institutions, resulting in customer onboarding processes focusing on legal compliance. However, with increasing competition and digitization in the financial world, there is a trend of using digital platforms to attract, connect, and formalize customers for customer convenience. Today, RE's have access to three types of onboarding processes:

a) **Physical/ Face-to-face**

In case of physical onboarding, customers are required to visit a branch or office of the financial institution for a face-to-face or physical meeting with the financial representative. During this physical meeting, the customer submits to the representative the physical copies of their identification documents along with the original counterparts. The RE then checks the copies against the original to verify accuracy and authenticity. These documents help provide Identity evidence of the customer which has traditionally been presented in physical form, such as a birth certificate, passport, national identity card, driver's license, or other government-issued document (as prescribed under law).

Although traditional, physical onboarding can provide greater comfort to the REs in terms of risk mitigation, it involves time-consuming paperwork, manual checking, and in-person ID verification.

Physical onboarding also comes with the disadvantage of limited accessibility as customers are required to be present physically which means that they are required to travel to the IFC for the onboarding from their country of residence which can be a deterrent.

b) **Digital onboarding/Non-face-to-face**

[190] https://ec.europa.eu/futurium/en/system/files/ged/study_on_eid_digital_onboarding_final_report.pdf

Digital customer onboarding refers to the process of integrating technology and digital channels to facilitate the seamless and efficient onboarding of new customers into a financial institution. It is characterized with the use of technological solutions in a non-face-to-face set-up in which the customer is not physically present at the location where the onboarding is taking place. All of the phases of the on-boarding process are completed electronically; no physical interaction is needed. This modern approach replaces traditional, paper-based methods of onboarding, offering a more convenient and user-friendly experience for customers.

By digitizing the onboarding process, a financial institution is able to expand its customer base and adhere to new requirements. Further, a digital onboarding process generally results in faster identification and document verification as RE representatives typically have less work to do when verification and collecting processes are digitalized.

Digital onboarding usually comprises of:[191]

i. **Video-KYC** - is characterized as a live, visual, and audio communication technique that mimics a face-to-face meeting between two or more distant participants via the internet. Customers can present their original identification documents to a financial institution representative during the virtual meeting/videoconference. The representative can then visually confirm and verify the original identification documents and compare them with the actual person seated across from him in the conference. This process is intended to mimic all the steps required in a physical onboarding without requiring the actual presence of the customer at the RE.

ii. **E-KYC ("Do it yourself") -** is a part of digital onboarding by which customers are permitted to provide their identification documents using electronic means. It can also include verification of the electronic documents through biometrics and digital signatures.

Thus, by leveraging technology such as biometrics, image capture, and advanced data validation ensures a secure and efficient onboarding journey. These digital tools not only enhance the speed of the onboarding process but also contribute to the overall security and accuracy of client information.

Another added advantage of digital onboarding is automated communication channels for updates and notifications along with the integration of customer support for addressing any queries and issues promptly. The monitoring and tracking of customer transactions for any suspicious activities also gets streamlined through digital processes. However, digital onboarding also requires the implementation of robust cybersecurity measures to safeguard customer data during the onboarding process. For this purpose, multi-factor authentication and encryption methods are used for ensuring a secure digital environment.

c) **Hybrid On-boarding**

A hybrid onboarding model combines the strengths of both physical and digital channels, aiming to provide a seamless and efficient experience for clients entering the global financial ecosystem. This approach recognizes the diverse needs and preferences of NR clients while leveraging the advantages of both in-person and online interactions. NR customers may have specific questions, complex financial needs, or require in-depth advice that is best addressed through face-to-face consultations. The physical branches act as a complement to digital channels, providing a human

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[191] https://assets.kpmg.com/content/dam/kpmg/cn/pdf/en/2019/04/digital-onboardingin-smart-banking.pdf.

touch and reinforcing trust in the client-bank relationship.

In a hybrid model, physical branches play a crucial role as relationship servicing centres. While a significant portion of the onboarding process can be initiated through digital channels, such as online applications and document submissions, physical branches serve as essential touchpoints for more personalized interactions. Digital channels in a hybrid onboarding model offer convenience, speed, and accessibility. Through user-friendly online platforms, NR customers can initiate the onboarding process remotely, submit necessary documentation electronically, and receive real-time updates on their application status. However, in this model, customers are generally still required to visit the physical location of the RE at least once, which can be a cumbersome requirement for NRs.

III. Significance of seamless onboarding of NR and NRI customers

The concept of a "seamless onboarding experience" denotes a meticulously timed and coordinated process designed to run a KYC check on new customers being onboarded into the Regulated Entity's business and processes. In the context of NR and NRI customers, seamless onboarding can only be undertaken by way of an entirely digital process. The following are the advantages of seamless digital onboarding processes:

a) **Attracting and Retaining Customers:**[192] A meticulously crafted digital onboarding process serves as the gateway to a positive first impression, establishing a foundation of trust. This initial experience not only influences the customers to choose to opt for the facilities provided by a Regulated Entity in the GIFT IFSC but also plays a pivotal role in their decision to continue to engage in such services.

b) **Competitive Advantage:**[193] Streamlined digital onboarding procedures act as a distinguishing factor, which will help GIFT IFSC set itself apart from other jurisdictions by ensuring that customers are not subjected to cumbersome and convoluted onboarding experiences. This competitive advantage becomes a key driver for customer acquisition and retention.

c) **Reputation Building:**[194] Simple digital onboarding will contribute to GIFT IFSC's reputation for customer-centricity, positioning it as a preferred choice for international investors. A positive reputation attracts a broader spectrum of global investors, fostering an environment conducive for sustainable growth and promotes creditability.

d) **Compliance and Risk Mitigation:**[195] Efficiency in onboarding by way of using technology translates to minimized errors and omissions in documentation and verification. This, in turn, ensures compliance with the stringent (KYC) and (AML) regulations, safeguarding against the need for regulatory scrutiny.

e) **Faster Identification of Suspicious Activity:**[196] Onboarding procedures streamlined through digital processes enable swift identification of suspicious transactions, enhancing the Regulated Entity's ability to report such activities promptly. This agility in response mitigates

[192] https://assets.kpmg.com/content/dam/kpmg/pdf/2016/07/transforming-client-onboarding.pdf.
[193] https://www.longfinance.net/media/documents/GFCI_34_Report_2022.09.28_v1.0.pdf.
[194] https://www.longfinance.net/media/documents/GFCI_34_Report_2022.09.28_v1.0.pdf.
[195] https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Opportunities-Challenges-of-New-Technologies-for-AML-CFT.pdf.coredownload.pdf.
[196] https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Opportunities-Challenges-of-New-Technologies-for-AML-CFT.pdf.coredownload.pdf.

associated risks and fortifies the Regulated Entity's commitment to regulatory compliance.

f) **Time-to-Market Advantage:**[197] Rapid account opening enabled through digital onboarding reduces the time it takes for clients to start utilizing financial services. This time-to-market advantage is critical in capitalizing on time-sensitive investment opportunities, demonstrating that GIFT IFSC's is committed to facilitating a framework which helps customers achieve their financial goals promptly.

g) **Global Accessibility:**[198] As financial markets become increasingly globalized, a seamless digital onboarding process accommodates clients from diverse geographical locations and time zones. This inclusivity not only attracts a broader client base but will also position the GIFT IFSC as an institution with a global outlook.

h) **Adaptability to Technological Trends:**[199] A smooth digital onboarding process must leverage cutting-edge technologies. The GIFT IFSC's recognition of technological trends will showcase their commitment to staying ahead in the rapidly evolving financial technology landscape, attracting clients who seek modern and efficient financial services.

IV. Digital Onboarding processes followed in the global financial centres

Digitization is evolving the business landscape such that digital onboarding processes are becoming increasingly popular. Digital onboarding process, in simple terms, is the replication of the traditional manual process of onboarding customers by using online or digital channels with the added benefits of automation. This covers digital signatures, electronic KYC verification, and account opening procedures. Furthermore, the conducting of various checks such as KYC and AML can be automated through digital onboarding processes. This also entails real-time identification and flagging of possible dangers, suspicious actions, and abnormalities by automated systems through the use of sophisticated analytics, machine learning, and artificial intelligence.

Regulators worldwide have taken steps to recognize CDD carried out through secure digital processes like government-issued digital IDs, encrypted real-time video conferencing, and biometrics in order to strike the delicate balance between AML/CFT risks assessment and ease of doing business. A few governments have also permitted financial entities to extend the digital onboarding process to NRs.

The following Digital Onboarding processes have been adopted by global financial centres:

a) **Luxembourg:**[200]

Europe is well known for being home to several global financial centres, each of which is essential to the functioning of the global financial system. The European Banking Authority **("EBA")**, an independent regulatory authority has released guidelines on remote customer onboarding which provide insights into how digital onboarding can be extended to NRs (**"EBA Guidelines"**).[201] The Commission de Surveillance du Secteur Financier (**"CSSF"**),[202] which is the regulatory authority of

[197] https://assets.kpmg.com/content/dam/kpmg/pdf/2016/07/transforming-client-onboarding.pdf.
[198] https://ifsca.gov.in/Document/ReportandPublication/onshore-the-indian-innovation-to-gift-ifsc-a4-1327082023112304.pdf
[199] https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Opportunities-Challenges-of-New-Technologies-for-AML-CFT.pdf.coredownload.pdf.
[200] https://www.fatf-gafi.org/en/publications/Mutualevaluations/MER-Luxembourg-2023.html
[201] https://www.eba.europa.eu/legacy/regulation-and-policy/regulatory-activities/anti-money-laundering-and-countering-financing-4.
[202] https://www.cssf.lu/en/.

the Luxembourg financial centre has integrated the EBA Guidelines into its administrative practice and regulatory approach.

It is important to note that Directive (EU) 2015/849,[203] which is the law on AML and TF and the basis for EBA Guidelines, is technology neutral and REs have the option to employ electronic or documentary means, or both, to verify the identification of their customers.[204] The only requirement is that REs should make sure that this evidence is based on data or information from reliable and independent sources.[205] In the context of electronic verification, the CSSF further provides that adequate safeguards, such as electronic signatures, electronic identification means meeting the criteria set out in Regulation (EU) No 910/2014 and anti-impersonation fraud measures should be undertaken.[206]

Currently, Luxembourg permits "Identification/Verification of identity through video chat" which refers to the process by which a representative of the RE can use an online video conference to identify and verify the identity of a customer.[207] The RE representative can carry out the verification in the following ways:

i. Perform the video identification process himself using a tool developed internally, or
ii. Perform the video identification process himself using an external tool he has acquired from an external provider, or
iii. Delegate the identification process to an external provider using his own tool.

Although customer being an NR is identified as a risk factor by the CSSF,[208] Article 16 of Directive 2014/92/EU creates a right for customers who are legally resident in the European Union to obtain a basic bank account and accordingly all member states of the EU are required to provide remote onboarding options to NRs of the state in which the account is being opened as long as the customer is from any of the member states of EU.

Further, the EBA guidelines prescribe that REs must set risk-sensitive procedures for remote customer onboarding. These policies ought to describe the features and functionalities of the information gathering, verification, and recording system. In addition, they have to classify clients, goods, and services, determine which scenarios qualify for remote onboarding, and set up safeguards to guarantee that the initial transaction complies with all preliminary due diligence procedures. Induction and continuous training programmes, as well as a clear understanding of autonomous vs human-intervened actions, are also necessary to keep staff members informed about the remote onboarding solution and its hazards.

Additionally, the guidelines provide that REs are required to ensure that data obtained through remote client onboarding is up to date and complies with legal and regulatory requirements for first customer due diligence. Furthermore, all recorded data, audio, video, and photos must be in a legible format that allows for clear client identification. When the identification process detects unexpected connection disruptions or technical issues, it must stop immediately.

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[203] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849.
[204] Guideline 4.32 of CSSF Regulation 21/782, https://www.cssf.lu/wp-content/uploads/cssf21_782eng.pdf.
[205] Article 13 (a) of (EU) 2015/849.
[206] Guideline 10.8 (a) of CSSF Regulation 21/782, https://www.cssf.lu/wp-content/uploads/cssf21_782eng.pdf.
[207] https://www.cssf.lu/en/Document/faq-on-aml-ctf-and-it-requirements-for-specific-customer-onboarding-kyc-methods-for-the-identification-verification-through-video-chat/.
[208] Guideline 9.6 of CSSF Regulation 21/782, https://www.cssf.lu/wp-content/uploads/cssf21_782eng.pdf.

Similarly, REs need to put in place safeguards to guarantee the accuracy of data that is automatically collected. These safeguards include spoofing IP addresses, obfuscating device locations, and using Virtual Private Networks (VPNs) among other risk-reduction measures.

b) **Hong Kong**

The Anti-Money Laundering and Counter-Terrorist Financing Guidelines in Hong Kong generally mandates that financial institutions take extra precautions to handle any elevated risks related to customers who are not physically present for identification purposes.[209] The Securities and Futures Commission (**"SFC")** and the Hong Kong Monetary Authority (**"HKMA"**), two of the city's financial authorities, have allowed for flexibility in online customer onboarding in a risk-controlled setting for overseas customers. However, this is allowed for only customers from select nationalities. The list of qualified jurisdictions for the purpose of remote client onboarding by REs is provided by the SFC based on the findings of the FATF's mutual assessments.[210]

Some of the risks pointed out by the HKMA and SFC are impersonation risks, the speed with which electronic transactions can be completed, the simplicity with which many false account applications can be completed, and the use of stolen identities, which can be more difficult to identify and deter when done remotely.[211]

While some REs are investigating and/or testing ideas and solutions, others have already begun remotely onboarding individual consumers via electronic channels like mobile applications or the internet. This is in line with the prescribed prior risk assessment which REs are required to conduct based on the type, scale, and complexity of their businesses before initiating a remote onboarding program.[212] REs are then required to continuously monitor and manage the efficacy of the technology they have adopted, especially in the early phases of its implementation and operation.

The HKMA prescribes that any technological solutions used by REs for remote onboarding must address the following two areas and be at least as reliable as those carried out when the customer is physically present:[213]

(i) Identification authentication: REs are required to take the necessary precautions to guarantee the accuracy of any documents, data, or information they collect to confirm the identification of their customers. This involves using technology to determine whether an identity document is authentic, such as by detecting holograms or security features;

(ii) Identity matching: REs are required to use proper technology, such as biometric solutions like facial recognition and liveness detection, to inextricably link the customer to the identity provided in (i).

On the point of electronic signatures, it may be noted that the Hong Kong government has granted

[209] Guideline 4.10, https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/guideline/Guideline_on_AML-CFT_(for_AIs)_eng_May%202023.pdf.
[210] https://www.sfc.hk/en/Rules-and-standards/Account-opening/List-of-eligible-jurisdictions-for-remote-onboarding-of-overseas-individual-clients.
[211] https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20190201e1.pdf.
[212] Guideline 2.10 and 2.11, https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/guideline/Guideline_on_AML-CFT_(for_AIs)_eng_May%202023.pdf.
[213] https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20190201e1.pdf.

mutual recognition status to electronic signature certifications issued by certification agencies outside of Hong Kong. These certificates are known as recognized signing certificates. As such, the SFC allows for the purpose of client identity verification, using the certification services offered by certain certification authorities outside of Hong Kong.[214]

c) **DIFC**

REs are expected to identify each client and verify the customer's identity using papers, data, or any other identifying information from reliable and independent source in accordance with Rule 7.3 of the DFSA Rulebook on Anti-Money Laundering, Counter-Terrorist Financing, and Sanctions Module.[215] In this context, reliability and independence are particularly dependent on the efficient implementation of risk mitigation strategies to avoid and control hazards associated with identity verification and enrolment.

The DFSA is the regulatory authority for the DIFC. It does not impose any restrictions on the form that identity evidence must take, either physical or digital. This requirement is technology neutral and expressly permits REs to use both documentary and non-documentary sources (i.e., information or data) when performing identification and verification. This is supplemented by a robust data protection regime followed at DIFC.

The primary piece of legislation permitting electronic signatures in DIFC is the Electronic Transactions Law No. 2 of 2017.[216] If an electronic signature is as reliable as appropriate for the purpose for which the document or record was generated or communicated, in light of all the circumstances, including any relevant agreements then it is deemed to identify the relevant person and to indicate that person's consent with regard to the information contained in the electronic record. Under this law, there is no express provision for the use of certificate-based digital certificates. As such flexibility is offered to REs to use reliable digital signatures that meet the requirements under law.

d) **Singapore:[217]**

Non-face-to-face mode of account opening customers is legally permitted in Singapore IFC to facilitate customer onboarding in cases where the customers are unable to visit Singapore and meet with the bank representatives at the branch/office to fulfill the procedures involved in the paper application process for the onboarding. However, the government requires REs to take a risk-based approach with respect to which client they choose to onboard digitally. Accordingly, REs generally opt to offer digital onboarding only to Singapore citizens, permanent residents and foreigners based out of Singapore who have Singapore government issued identification.

The following guidelines have been provided by MAS in respect of the remote onboarding processes:

i. Video conferencing - Instead of holding in-person meetings, banks in Singapore IFSC use video conferencing to onboard new customers. This entails interacting with the customers and seeing their identification documents during the video conference. However, for accounts that carry a greater risk of (ML/TF), the video-conferencing procedures are supplemented with further checks such as cross-referencing the client's data with reputable, independent databases.

[214] https://apps.sfc.hk/edistributionWeb/api/circular/openFile?lang=EN&refNo=19EC46.
[215] https://dfsaen.thomsonreuters.com/rulebook/anti-money-laundering-counter-terrorist-financing-and-sanctions-module-aml-ver2401-24.
[216] https://edge.sitecorecloud.io/dubaiintern0078-difcexperie96c5-production-3253/media/project/difcexperiences/difc/difcwebsite/documents/laws--regulations/electronic_transactions_law_final.pdf.
[217] https://www.mas.gov.sg/regulation/circulars/circular-on-non-face-to-face-customer-due-diligence-measures.

ii. Where the RE has sighted an original ID document via video conferencing and is satisfied that the ID document sighted is consistent with the soft copy furnished by the customer, the RE is not required to obtain a certified true copy (i.e., third-party attestation) of the ID document. Further, the banks in Singapore IFC are flexible enough that video conferencing is allowed for the verification of CDD papers even if they cannot be checked against a register or do not include the necessary authenticity indicators (such a foreign certificate of incorporation). In such a scenario, the banks carry out additional safeguards like requesting an original, certified true copy or asking for soft copies authenticated with digital signatures or watermarks. These additional safeguards are illustrative examples and as such are non-exhaustive. Therefore, entities can apply any measure, so long as it is appropriate to mitigate the risk.

iii. E-signing/digital signatures - Instead of acquiring wet ink signatures, banks in Singapore IFC have been using e-signing techniques to simplify the formation and maintenance of Non–face to face ("NFTF") business partnerships. For instance, they are using Singapore Governments' technology feature, "Sign with Singpass", to accept papers that have been e-signed by directors and authorized signatories of corporate clients. Beyond this, the banks are also utilizing different vendor solutions to enable e-signatures. Banks accept e-signing and digital signatures, provided that they are acceptable as evidence in Singaporean courts.

iv. New Technology Solutions - banks in Singapore IFC are using facial recognition technology which compares the face on the ID document with the face in a live video or selfie shot using computer algorithms. The usage of liveness detection technology, which analyses biometric sensor data using algorithms, is also used to determine if it's a real person interacting or a fake representation.

Further, internal or external technologies for verifying the validity of ID cards and eliminating the risk of forged or fraudulent documents are also being used. This entails extracting distinct security elements from the customer's ID card and using Application Programming Interfaces ("APIs") to cross-reference them with databases. In addition to checking against police records, data validation and consistency checks are carried out to determine if the ID document has been lost, stolen, or hacked.

In order to mitigate risks arising from adopting new technology solutions, banks have also integrated additional controls, such as requiring the customer to make an initial deposit into the new account from funds held by the customer in a Singaporean bank account or calling the customer back using a phone number that can be independently verified.

e) **New York:**[218]

In New York, the Customer Identification Programs ("CIP") prescribed for REs do not impose any restrictions on the form that customer identity proof must take, either physical or digital. This requirement is technology neutral and expressly permits REs to use both documentary and non-documentary methods or a combination of both, (i.e., information or data) when performing customer identification and verification. The only requirement is for the banks to describe under which scenario what type of method will be used for customer identification. This accords both freedom and accountability on

[218] https://www.sec.gov/about/offices/ocie/aml2007/31cfr103.121.pdf.

the part of the REs as REs cannot randomly choose to exclude a particular category of customers from availing non-documentary verification processes without providing reasoning for the same.

New York has a simple document verification process as minimal documents are required for establishing customer identity. For example – an unexpired government-issued identification evidencing nationality or residence and bearing a photograph or similar safeguard, such as a driver's license or passport is sufficient documentation for customer identification. Further, in case of non-availability residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of next of kin or of another contact individual is accepted for address proof. This flexibility and alternatives made available to NR customers make it convenient for them to get onboarded with the respective REs in New York.

In the similar vein, further relaxations such as accepting documents like taxpayer identification number; passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph for customer identification purposes, make onboarding faster and convenient for NRs. Additionally, the usage of phrase "or similar safeguards" towards the end of the relevant regulations, provides for a non-exhaustive list of safeguards/measures that REs can take to ascertain the identity of NR customers.

In fact, REs are not prohibited from onboarding NR customers who are unable to provide the necessary documentation for CIP purposes as non-documentary methods such as contacting a customer; independently verifying the customer's identity through the comparison of information provided by the customer with information obtained from a consumer reporting agency, public database, or other source; checking references with other financial institutions; and obtaining a financial statement, are followed for customer verification. In this way, REs have many options to verify a NR customer as long as they are able to rationalize the approach taken when questioned by the authorities, if at all.

Sr. No.	**On-boarding requirements for NRs**	**New York**	**Lux**	**Singapore**	**DIFC**	**Hong Kong**
1	Is digital on-boarding permitted?	Yes	Yes[219]	Yes[220]	Yes	Yes
2	Is Video KYC permitted?	Yes	Unclear	Yes	Unclear[221]	Yes
3	Is certification mandatory for KYC ID documents for digital onboarding?	No	No[222]	No, subject to video KYC[223]	Yes	Unclear
4	Are digital signatures permitted?	Yes	Yes[224]	Yes[225]	Unclear[226]	Yes

Snapshot of Digital Onboarding of NRs in IFCs

219 Point 4.32 on Page No. 48 of CSSF Regulation 21/782, https://www.cssf.lu/wp-content/uploads/cssf21_782eng.pdf.
220 Point 2 on Page 1 of MAS Circular on NFTF Customer Due Diligence Measures, https://www.mas.gov.sg/regulation/circulars/circular-on-non-face-to-face-customer-due-diligence-measures.
221 The DSFA Rulebook is silent on video KYCs, and does not specifically prohibit them.
222 Point 4.26 on Page No. 47 of CSSF Regulation 21/782, https://www.cssf.lu/wp-content/uploads/cssf21_782eng.pdf.
223 Refer Point 6.6.6 on Page 18 of MAS Notice 626 – 2015, https://www.mas.gov.sg/regulation/circulars/circular-on-non-face-to-face-customer-due-diligence-measures and https://www.mas.gov.sg/-/media/mas-media-library/regulation/circulars/amld/circular---non-face-to-face-customer-due-diligence-measures-1.pdf.
224 Point 10.8(a) on Page No. 83 of CSSF Regulation 21/782, https://www.cssf.lu/wp-content/uploads/cssf21_782eng.pdf.
225 Point 6 on Page 2 of MAS Circular on NFTF Customer Due Diligence Measures, https://www.mas.gov.sg/regulation/circulars/circular-on-non-face-to-face-customer-due-diligence-measures.
226 The DFSA Rulebook is silent on the validity of digital signatures. However, in the UAE, laws with respect to digital signatures are currently being formulated allowing for the use of digital signatures, subject to certain conditions.

V. Overview of the onboarding processes followed at GIFT IFSC

Onboarding within GIFT IFSC involves the meticulous initiation of client relationships through protocols governed by International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines 2022 **("AML Guidelines")**. Following the FATF standards, the AML Guidelines adopt a risk-based approach which means that every RE set up in the GIFT IFSC is required to determine the level of money-laundering and terrorist financing ("**ML/TF**") risk associated with each of its customers. Based on this risk-based approach ("**RBA**"), the extent of CDD required to be undertaken is determined.

As per the AML Guidelines, each RE must ensure that its RBA is:[227]

i. Objective and proportionate to the risk;

ii. Based on reasonable grounds;

iii. Reviewed and updated at appropriate intervals.

In order to carry out the risk assessment of the customers, the following factors are considered:[228]

i. Type of customers (the sector/business the customers operate in, conduct of business relations by the customer, etc.);

ii. Countries or geographical areas (whether the countries in which the customer operates have been identified by FATF as countries with high levels of corruption, organized crimes or inadequate AML/CFT measures or countries subject to sanctions/embargos by the UN);

iii. Products, services, transactions (whether the services are being provided to a large and undefined group of customers, or the transactions are anonymous and/or involve frequent payments received from unknown or un-associated third parties, etc.).

Based on the above factors, high risk customers are identified as persons with anonymous accounts, shell financial institutions, residents from geographical areas of high risk etc. Similarly, low risk customers are residents from a geographical area of low risk, government entities and public companies listed on a stock exchange etc. Accordingly, high-risk customers are subjected to enhanced CDD procedures in addition to the normal CDD carried out, low-risk customers have simplified CDD procedures for their onboarding, and all other customers have normal CDD procedures.[229]

In addition to being performed during the initial stages of establishing a business relationship, ongoing due diligence is also conducted which involves monitoring transactions after the customer has been onboarded.[230]

[227] Clause 2.1(a), AML Guidelines. Available at: https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Fifsca-aml-cft-kyc-guidelines-20222905202302181818.pdf&Title=IFSCA%20%28Anti%20Money%20Laundering%2C%20Counter%20Terrorist-Financing%20and%20Know%20Your%20Customer%29%20Guidelines%2C%202022&Date=01%2F11%2F2022.

[228] Ibid.

[229] Guidance note #1 to Chapter IV, AML Guidelines. Available at: https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Fifsca-aml-cft-kyc-guidelines-20222905202302181818.pdf&Title=IFSCA%20%28Anti%20Money%20Laundering%2C%20Counter%20Terrorist-Financing%20and%20Know%20Your%20Customer%29%20Guidelines%2C%202022&Date=01%2F11%2F2022.

[230] Clause 2.1(f), AML Guidelines. Available at: https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Fifsca-aml-cft-kyc-guidelines-20222905202302181818.pdf&Title=IFSCA%20%28Anti%20Money%20Laundering%2C%20Counter%20Terrorist-Financing%20and%20Know%20Your%20Customer%29%20Guidelines%2C%202022&Date=01%2F11%2F2022.

As such, CDD also applies to existing customers in the event that questions arise about the accuracy or sufficiency of the supporting documentation or concerning business conduct of the customer.[231]

As per the AML Guidelines, the CDD process for medium and low risk customers requires RE's to obtain the following identification information from individual customers:[232]

i. Full name, including any aliases;

ii. Unique Identification Number (such as an Identity card number, passport number, etc.);

iii. Date of birth;

iv. Nationality;

v. Legal domicile;

vi. Current residential address; (other than a post office box address);

vii. Contact details such as personal, office or work telephone numbers.

This information is to be verified against reliable, independent source data, documents or information, including government-issued identity cards or current valid passport, reports from independent company registries, published or audited annual reports and other reliable sources of information. The AML Guidelines further provide a set of Official Valid Documents (**"OVDs"**) against which customers' identification information can be verified. The complete list of OVDs can be found in Annexure 1 of this Report.[233] As per Guidance Note #2 of Clause 5.4.3 read with Part II of Annexure I of the AML Guidelines, in cases where a low or medium risk customer is an NR, their passport, driving license, "national identity card and voter identification card, by whatever name called, issued by the Government of foreign jurisdictions or agencies authorised by them capturing the photograph, name, date of birth and address of a foreign national would also be considered as OVD." Specifically, for low-risk customers under the Simplified CDD, identity card with applicant's photograph issued by Central/State Government Departments, Statutory/ Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions; and (ii) letter issued by a gazetted officer, with a duly attested photograph of the person, are also permissible OVDs.

Guidance Note #2 of Clause 5.4.3. of the AML Guidelines further states that "For the purpose of customer verification, equivalent e-documents of OVDs shall also be treated as original document by [RE]." That being said, Guidance Note #6 provides that the RE must examine all original documents and retain a copy of the same. Where original copies are not accessible due to non-face-to-face (i.e. digital) onboarding, a copy of the relevant document must be certified as a 'true copy', and such certification must be carried out by specified persons. Accordingly, while Guidance Note #2 of Clause 5.4.3 suggests that e-documents are acceptable as original forms of OVDs, Guidance Note #6 of Clause 5.4.3 mandates that a physical copy which has been certified as 'true copy' also be submitted in case of digital onboarding. Such certification is required to be undertaken by any one of the following:[234]

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[231] Clause 4.1(b), AML Guidelines. Available at: https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Fifsca-aml-cft-kyc-guidelines-20222905202302181 8.pdf&Title=IFSCA%20%28Anti%20Money%20Laundering%2C%20Counter%20Terrorist-Financing%20and%20Know%20Your%20Customer%29%20Guidelines%2C%202022&Date=01%2F11%2F2022.

[232] Clause 5.4.2, AML Guidelines. Available at: https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Fifsca-aml-cft-kyc-guidelines-20222905202302181 8.pdf&Title=IFSCA%20%28Anti%20Money%20Laundering%2C%20Counter%20Terrorist-Financing%20and%20Know%20Your%20Customer%29%20Guidelines%2C%202022&Date=01%2F11%2F2022.

[233] Clause 5.4.3, AML Guidelines. Available at: https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Fifsca-aml-cft-kyc-guidelines-20222905202302181 8.pdf&Title=IFSCA%20%28Anti%20Money%20Laundering%2C%20Counter%20Terrorist-Financing%20and%20Know%20Your%20Customer%29%20Guidelines%2C%202022&Date=01%2F11%2F2022.

[234] Paragraph 4, Part II, Annexure I, AML Guidelines.

i. Authorised official of a bank located in a (FATF) compliant jurisdiction with whom the individual has banking relationship;

ii. Notary Public (outside India);

iii. Court Magistrate (outside India);

iv. Judge (outside India);

v. Certified public or professional accountant (outside India);

vi. Lawyer (outside India);

vii. The Embassy/Consulate General of the country of which the NR individual is a citizen; or

viii. any other authority as may be specified by the Authority.

Moreover, while Guidance Notes #2 and #6 suggest that digital / ("NFTF") onboarding may be permissible for all low and medium risk customers, Guidance Note #5 read with Annexure-II only provides NFTF onboarding provisions for Indian nationals. This CDD process is as follows:

Video- Customer Identification Process ("**V-CIP**") for onboarding Indian nationals[235]

REs opting to undertake V-CIP, have to adhere to the following minimum standards which include 3 components:

i. Infrastructure;

ii. Procedure;

iii. Data records and management.

a. **Infrastructure should majorly satisfy the following requirements:**

- REs are obligated to adhere to a baseline cyber security and resilience framework, subject to updates, and general IT risk guidelines. Their technology infrastructure must be housed within their own premises.
  The V-CIP infrastructure/application must be capable of blocking connections from IP addresses outside India or from spoofed IP addresses.

- Video recordings during V-CIP must include live GPS coordinates (geo-tagging) of the customer, along with date-time stamps. Technology such as face liveness/spoof detection and face matching should be used.

b. **Procedure should majorly satisfy the following requirements:**

- Authorized officials conducting the V-CIP must record audio-video and capture the customer's photograph for identification purposes. Identification information may be obtained through offline verification of Aadhaar, KYC records from CKYCR, or equivalent e-documents.

- If the customer's address differs from that indicated in the OVD, records of the current address must be captured as per requirements. Additionally, the economic and financial profile provided by the customer should be verified during the V-CIP.

- A clear image of the PAN card displayed by the customer must be captured during the V-CIP unless an e-PAN is provided. PAN details must be verified from the issuing authority's database, including Digilocker.

[235] https://www.rbi.org.in/CommonPerson/english/scripts/notification.aspx?id=2607.

- Any requirements not explicitly mentioned but mandated by other statutes, such as the Information Technology ("**IT**") Act, must be diligently complied with by Regulated Entities.

c. **Record keeping and management should majorly satisfy the following requirements:**

- This regulation mandates that all data and recordings related to (V-CIP) must be stored within India.
- Additionally, activity logs recording who performed the V-CIP and when must be preserved.

VI. Recommendations

1. Third Party Attestation / Certification:

Background: Where Individual NRs and NRIs are not able to physically show original OVDs to a representative of an RE, they are required to get certification of the copies of the OVDs through designated person/entities. The attestation is required to verify that the copy of the OVD submitted to the RE is identical to the original and has not been tampered with. Conventional methods under the AML Guidelines of attesting documents by way of certified true copies through a bonafide authorized person for onboarding NFTF clients are logistically cumbersome and commercially unviable. In fact, the certification required by authorities specifically mentioned under the AML Guidelines is also generally expensive and not always feasible for NRIs and NR individuals. Further, such requirement also leads to delays in account opening which could significantly affect a customers' / investors' financial returns and diminish perception of the RE and / or the GIFT IFSC at large. This deters NR and NRI customers / investors from participating in the financial product or service offered by the GIFT IFSC RE.

Legal Consideration: Guidance Note #6 of Clause 5.4.3 and Paragraph 3 of Part II of Annexure I of the AML Guidelines provides that the RE must examine all original documents and retain a copy of the same. Paragraph 4 of Part II of Annexure I provides that where original copies are not accessible due to non-face-to-face (i.e. digital) onboarding, a copy of the relevant document must be certified as a 'true copy', and such certification must be carried out by any one of the following:[236]

(i) Authorised official of a bank located in a (FATF) compliant jurisdiction with whom the individual has banking relationship;

(ii) Notary Public (outside India);

(iii) Court Magistrate (outside India);

(iv) Judge (outside India);

(v) Certified public or professional accountant (outside India);

(vi) Lawyer (outside India);

(vii) The Embassy/Consulate General of the country of which the NR individual is a citizen; or;

(viii) any other authority as may be specified by the Authority.

Recommendation: This Working Group recommends IFSCA to amend Paragraph 4 of Part II of Annexure 1 of the AML Guidelines to provide exemption from third party attestation / certification where the CDD documents are self-attested, coupled with funding confirmation.. Funding confirmation is the process by which the RE requires the customer to make an initial deposit into the new account in the GIFT IFSC from

[236] Paragraph 4, Part II, Annexure I, AML Guidelines.

funds held by the customer in an account located in the country of their residence. Through this process, information such as the customer's name, bank operation code, etc can be verified as these details are provided in the MT103 form which is a document for proof of payment done through the SWIFT network. [237] Since the SWIFT network is a credible source that can be relied upon by REs, this ensures that any risk of impersonation/fraud is mitigated as RE can match the name in which the GIFT IFSC account is opened against the name of the customer's account in the foreign jurisdiction. This process is also followed in other IFCs, including Singapore.

Concerned Authority: IFSCA

2. Permit Non-Face-To-Face (i.e. Digital) Onboarding of NR and NRIs

Background: As per the AML Guidelines, while specifically parameters have been provided for the digital onboarding of Indian nationals, similar provisions have not been provided for digitally onboarding NRs / NRIs. While it may be possible to argue that there is no restriction under the AML Guidelines which specifically prohibits the digital onboarding for NRs / NRIs, the fact that no clear guidance is given deters REs from undertaking the same. REs are particularly wary of digitally onboarding NRs / NRIs as their failure to correctly onboard such customers could result in them being required to close the account and / or return all monies or assets received from the customer. The inherent risks of digital onboarding coupled with the lack of guidance under the AML Guidelines deters REs from undertaking the digital onboarding of NR / NRI customers. Despite the availability of online registration platforms, certain REs in the GIFT IFSC continue to heavily rely on in-person inquiries or phone calls, posing challenges for remote NRIs and NRs, regardless of their low or medium risk classification. This reliance on non-digital channels hinders accessibility for NR / NRI residing in different time zones or those who prefer the convenience of online interactions. The impact is not only limited to inconvenience but also reflects a missed opportunity for REs to leverage technology for a seamless and efficient customer experience.

IFCs like Singapore and New York provide regulatory frameworks that allow REs to digitally onboard NRs. While the relevant RE is still required to undertake a risk assessment to determine whether it will allow digital onboarding, the clarity in the legal framework that digital onboarding of NRs is at least, in principle permissible, allows the RE greater flexibility to develop CDD procedures and policies geared towards mitigating risks associated with digitally onboarding NRs.

Legal Considerations: While Guidance Notes #2 and #6 suggest that digital / NFTF onboarding is permissible for all low and medium risk customers, Guidance Note #5 read with Annexure-II only provides NFTF onboarding provisions for Indian nationals. As per these provisions, CDD can be digitally undertaken through the (V-CIP) and the Digital KYC procedure requires the customer's live GPS coordinates (geo-tagging) along with a date-and-time stamp in order to function. Geo-tagging is used to confirm that the customer is in India. Furthermore, the application and infrastructure of V-CIP block connections from IP addresses outside of India. Separately, Annexure 1 of PMLA Rules 2005 on digital KYC also require that "The client, for the purpose of KYC, shall visit the location of the authorized official of the Reporting Entity or vice-versa. The original Officially Valid Document (OVD) shall be in possession of the client."

Recommendation: The Working Group recommends the following:

i. That IFSCA clarifies that digital onboarding is also specifically available for low and medium risk NR and NRI customers. Specifically, Annexure II should be amended or a new Annexure should be

[237] https://www.swift.com/

introduced which allows geotagging to be used to confirm the current location of an NR / NRI customer outside of India, and the V-CIP block should be removed with respect to the onboarding of NR and NRI customers.

ii. Annexure 1 of PMLA Rules 2005 on digital KYC should also be amended to allow for a digital KYC process for customers of GIFT IFSC REs which does not require the customer to physically come to the RE's GIFT IFSC office for production of original OVDs. In this way, IFSCA may allow the usage of video conferencing options for NR / NRI onboarding that provide safe online interactions for account opening and document verification. This minimizes travel time by removing the need for NRIs to travel to India and improving convenience in general.

iii. Moreover, learning from successful jurisdictions like Singapore and Hong Kong, GIFT IFSC can implement clear digital/NFTF CDD guidelines for digital onboarding of NR and NRI. In addition to existing provisions on OVDs, risk-based approach and verification procedures, the guidelines should also include provisions with respect to data security, and testing protocols. By adopting such processes and leveraging best practices, GIFT IFSC can build NRI confidence and become trusted gateways for investment, leading to a flourishing digital onboarding landscape.

iv. Lastly, in line with FATF's guidance on digital identity,[238] IFSCA should also clarify that when digital ID systems with the appropriate assurance levels are utilized for remote customer identification/verification, digital/NFTF onboarding may be considered standard risk, or even low-risk for CDD purposes. This is necessary because REs otherwise may have internal policies that classify non-face-to-face business relationships or transactions as high-risk thereby triggering even more cumbersome processes for NR and NRI customers.

Concerned Authority: IFSCA / Department of Revenue, Government of India

3. Onboarding Existing Customers

Background: IFSC's approach to onboarding processes should be geared towards encouraging the widest possible customer participation subject to such customers satisfying AML / KYC requirements either in the GIFT IFSC, India or overseas (in FATF compliance jurisdictions). Currently, an RE is required to undertake a fresh CDD even where NRs / NRIs have accounts open in its related overseas or Indian entity, or in another GIFT IFSC RE.

Recommendation: for the ease of onboarding individuals who already have account open either in the GIFT IFSC, India or overseas, this Working Group recommends the following:

i. Reliance on Indian or overseas parent / subsidiary branch of GIFT IFSC RE**:** As per Regulation 6.2 of the AML Guidelines, REs are permitted to rely on a third party to perform CDD measures, subject to the conditions specified therein (for instance, the copies of identification data and other relevant documentation will be made available by the third party upon request, the third party is FATF compliant, etc). Further, under Regulation 6.1 (b), "third-party" includes RE's branches, subsidiaries, parent entity, the branch offices and subsidiaries of the parent entity, and other related corporations, etc. ("**Related Entities**") Accordingly, where the NRs / NRIs customers, physically go to the local branch / parent of the GIFT IFSC RE which is located in their home jurisdiction and present their original OVDs for verification, they are not required to physically go to the GIFT IFSC RE and produce original documents. However, it is not clear whether an overseas Related Entity is required to undertaken a fresh verification of CDD documents or whether the GIFT IFSC RE can open a new account based on the CDD undertaken by its Related Entity at the time the customer first opened his / her account with the overseas Related Entity. Accordingly, the

[238] https://www.fatf-gafi.org/en/publications/Financialinclusionandnpoissues/Digital-identity-guidance.html.

Working Group recommends that IFSCA clarify that no fresh CDD is required, and that so long as the information with the Related Entity is up to date (as per its own AML requirements) no further CDD needs to be undertaken for account opening by the GIFT IFSC RE.

ii. Reliance on Primary RE: IFSCA to require each GIFT IFSC RE ("**Primary RE**") to share verified KYC details of a customer which they have already onboarded with another GIFT IFSC RE ("**Secondary RE**") who intends to onboard the same customer, subject to such customer's consent. For example, if HDFC in the GIFT IFSC has already undertaken a CDD pursuant to which it has opened an account for a US resident, and now such US resident wishes to invest in a fund managed by an FME in the GIFT IFSC, IFSCA should be able to require (subject to customer consent) HDFC to share copies of the verified KYC documents with the FME, who in turn should be permitted to rely on such verified KYC documents to onboard the US resident as an investor into its fund. The FME should not be required to undertake a fresh CDD wherein the US resident would be required to provide a new set of KYC documents. AML Guidelines should be amended to expand the definition of third party reliance and IFSCA should issue a clarification that no further CDD needs to be undertaken by the Secondary RE.

iii. GIFT IFSC Repository: IFSCA to create a central KYC repository for GIFT IFSC across all RE sectors. Verified KYC details of customers can be stored in such repository with the customer's consent. This would allow NRs / NRIs customers to avoid multiple KYCs for every product and service they choose to avail at the GIFT IFSC. Once KYC is done for a particular NR / NRI customer, it should be updated in the GIFT IFSC local KYC repository which can be accessed across all REs set up in the GIFT IFSC. This approach has been followed by Luxembourg for customers within the European Union. Further, countries like Singapore use MyInfo[239] which is the central KYC repository, an initiative by the Singapore Government to allow for smooth customer onboarding with the help of customer data already collected. Customers who are foreign nationals but resident in Singapore, have access to MyInfo.

iv. Link with CKYC: IFSCA to tie up with CKYC to allow access to REs in the GIFT IFSC to verify data from the central KYC registry operating in mainland India. This would allow REs in the GIFT IFSC to verify information from NRI customers who have already undergone the onboarding process in India when opening accounts with REs located in mainland India. For example, for FPIs in mainland India, in case of multiple investment manager structures, if the entity has already furnished registration details to a designated depository participant at the time of its registration, then, the entity will not be required to again provide the registration details for each new FPI registration under this structure. In a similar way, when an NR / NRI is being onboarded in an RE in GIFT City IFSC which has a branch in mainland India wherein the NR / NRI is an existing customer, then the NR / NRI should not be required to undergo full-fledged CDD.

Concerned Authority: IFSCA

4. Clarification with respect to valid digital signatures

Background: A signature is typically used to communicate consent/acceptance and to authenticate the document and the identity of the person executing the document. Thus, the signature acts as evidence of consent and identity of the person signing it so as to ensure that the person authorized to give consent, in fact, has given consent for the terms of the contract. Compared to traditional paper-based methods,

[239] https://www.mas.gov.sg/-/media/mas/regulations-and-financial-stability/regulatory-and-supervisory-framework/anti_money-laundering_countering-the-financing-of-terrorism/circular-on-myinfo-and-cdd-on-nftf-business-relations.pdf

e-signatures eliminate the time-consuming and inefficient processes of physical signing, printing, scanning, and mailing. This translates to significant time and resource savings, fostering efficiency across organizations. Additionally, their accessibility empowers individuals to participate in document signing regardless of location, fostering global transactions. However, currently, only wet ink signatures or digital signatures issued by an Indian entity authorized to do so by the Ministry of Corporate Affairs are recognized as secure signatures. Other electronic signatures from third-party service providers like Docusign and Adobesign are considered to be unsecure signatures. Further, due to lack of awareness or conservative approach of REs, electronic signatures from these third-party service providers have been excluded from being used in GIFT IFSC.

Legal Consideration: The IT Act 2000 recognizes Digital signature certificate (DSC)/Aadhaar E-sign as valid forms of an electronic signature,[240] i.e., when the law mandates a certain document needs to be signed /executed, then this requirement is satisfied only if the nature of electronic signature is DSC/Aadhaar E-sign. For this purpose, electronic signature service providers such as DocuSign, Zoho, Adobe Sign are not recognized as electronic signatures under the ITA. However, for documents such as contribution agreement/ account opening forms, where the law does not mandate signature for the purposes of enforcing the document, electronic signatures such as Docusign and Adobesign may be used upon fulfilling the requisite requirements under law. These requirements have been provided under section 11 of the IT Act and in accordance with section 65B of Indian Evidence Act[241] wherein an electronic signature to be admissible in courts of law in India has to satisfy the criteria of being able to be traced back to the subscriber or person affixing the said electronic signature. Since both these third-party service providers (Docusign and Adobesign) provide a certificate that enables the signature to be traced back to it's owner/subscriber, under law, these are also valid forms of electronic signatures.

Recommendation: This Working Group recommends IFSCA issues a clarification stating that third-party electronic signature service providers like DocuSign, Zoho, Adobe Sign are also recognized as valid for use in GIFT IFSC as along as they meet the criteria provided under law (explained above, section 11 of IT Act and section 65B of Indian Evidence Act. Therefore, taking reference of DIFC's Electronic Transactions law which allows the use of third-party electronic signature service providers,[242] IFSCA may allow the integration of programmes like DocuSign and Adobe Sign so that physical signatures can be eliminated, allowing for the immediate interchange and execution of documents. Further, countries like Hong Kong have granted mutual recognition status to electronic signature certifications issued by certification agencies outside of Hong Kong. This greatly benefits non-residents and foreign nationals who can use electronic signatures considered valid in their home jurisdictions for ascribing on KYC documents in Hong Kong as long as the Hong Kong governments electronic signatures are recognized in their home jurisdictions. Similarly, it may be noted that Docusign and Adobe sign are permitted in Singapore[243]. This reduces paperwork and speeds up the onboarding process, which increases the convenience factor for NRIs.

Concerned Authority: IFSCA

5. Clarification with respect to requirement of Stamp Duty for onboarding of customers

Background: GIFT IFSC being an SEZ, stamp duty exemption has been provided. However, fund managers in the GIFT IFSC currently require investors to pay Stamp Duty in GIFT IFSC prior to executing any subscription or contribution agreements in order to take part in the GIFT IFSC funds. The ambiguity with

[240] Second Schedule of IT Act, 2000.
https://upload.indiacode.nic.in/schedulefile?aid=AC_CEN_45_76_00001_200021_1517807324077&rid=394.
[241] Section 65B of Indian Evidence Act, 1872.
https://www.indiacode.nic.in/show-data?actid=AC_CEN_3_20_00034_187201_1523268871700&orderno=71
[242] https://www.difc.ae/business/laws-and-regulations/legal-database/difc-laws/electronic-transactions-law-difc-law-no-2-2017.
[243] https://www.docusign.com/sites/default/files/court_support_for_electronic_signatures_in_singapore.pdf

respect to whether stamp duty is applicable or not is primarily due to a lack of established precedents, a constantly changing regulatory environment, some instruments being covered under the Indian Stamp Act 1899, while others being governed by the Gujarat Stamp Act 1958, etc. This creates confusion and delays, especially for NR and NRI who are not familiar with the concept of stamp duty or how to obtain the required e-stamp.

Legal Consideration: Section 3 of the Indian Stamp Act, 1899 provides an exemption for stamp duty on any instrument executed by or on behalf of, or in favour of a Unit set up in a SEZ. Further, certain additional exemptions under the Gujarat Stamp Act 1958 have also been provided with respect to instruments executed in the context of aircraft leasing, ship leasing, and transfer of immovable property. Nevertheless, REs, and in particular fund managers, in the GIFT IFSC continue to require stamp duty be paid on certain onboarding documents like contribution agreements in the context of funds.

Recommendation: This Working Group recommends that the Ministry of Finance and the Government of Gujarat issues relevant clarifications on the applicability of stamp duty with respect to all instruments executed in the GIFT IFSC.

Concerned Authority: Department of Revenue, Government of India and Government of Gujarat

6. Amendment of AML Guidelines to grant exemption from providing PAN

Background: The CBDT has notified that non-residents investing in GIFT IFSC funds are not required to obtain PAN where such non-resident does not have any source of income from India other than income received from the GIFT IFSC Fund. However, the PMLA Rules require REs to obtain PAN / Form 60 for their customers. As most NRs do not have PAN / Form 60 and are otherwise not required to obtain them, the requirement under the PMLA Rules (as defined below) is cumbersome and dissuades NRs from investing in GIFT IFSC.

Legal consideration: CBDT vide its notification[244] dated October 10, 2023, provides that a PAN is not a mandatory requirement for a non-resident seeking to invest in a fund in GIFT IFSC where the said non-resident, has no other source of income from India outside of the fund domiciled in GIFT IFSC, filing of Form 60 is also not required in such instances. However, Rule 9(4)(b) of the PMLA Rules requires that an RE obtain its customer's PAN or the equivalent e-document thereof (as defined under the ITA). That being said, Rule 9(14)(B) empowers regulators, including IFSCA to issue guidelines with appropriate exemption for "*continued operation of accounts for clients who are unable to provide Permanent Account Number … owing to injury, illness or infirmity on account of old age or otherwise, and such like causes*."

Recommendation: The Working Group recommends that exemption provided under Rule 9(14)(B) be amended such that the regulator is permitted to issue guidelines, which exempts customers who are not required to obtain a PAN pursuant to applicable Indian laws, from obtaining a PAN and the same should be provided in the AML guidelines. Further, it should be noted that the AML Guidelines already provide for alternative documents that the relevant RE can obtain in order to satisfy the KYC and PMLA requirements.

Concerned Authority: Department of Revenue, Government of India and IFSCA

7. Expansion of OVDs

Background: Currently, NRs and NRIs (not having Indian government issued identification) are only permitted to submit a very limited number of documents to satisfy the customer identification requirement under the AML Guidelines. While a broader set of documents is acceptable for low-risk

[244] https://egazette.gov.in/WriteReadData/2023/249287.pdf

customers under the Simplified CDD process, the same are not permitted for medium risk customers under regular CDD. By only allowing a limited number/type of identification documents, the AML Guidelines do not provide the type of flexibility afforded to NRs by other IFCs like New York and Singapore.

Legal Consideration: As per Guidance Note #2 of Clause 5.4.3 read with Part II of Annexure I of the AML Guidelines, in cases where a low or medium risk customer is an NR, their passport, driving license, "national identity card and voter identification card, by whatever name called, issued by the Government of foreign jurisdictions or agencies authorised by them capturing the photograph, name, date of birth and address of a foreign national would also be considered as OVD." Specifically for low-risk customers under the Simplified CDD, an identity card with applicant's photograph issued by Central/State Government Departments, Statutory/ Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions; and (ii) a letter issued by a gazetted officer, with a duly attested photograph of the person, are also permissible OVDs for verification of identity.[245] With respect to verification of address for low-risk customers under the Simplified CDD, documents such as utility bills, property tax receipts, foreign bank statements, etc. are also permissible for the limited purpose of verifying the customer's address.[246]

Recommendation: This Working Group recommends that the OVDs under the Simplified CDD process should also be permitted under normal CDD for medium risk customers. Further, the Overseas Citizens of India (OCI) card, which is issued by the Government of India and Overseas Rent Agreement may be accepted as OVD for the purposes of low and medium risk customers. Expanding the list of OVDs will further facilitate NR and NRI onboarding. Lastly, establishing procedures for frequent assessment and revisions of the OVD list is vital to adapt to evolving legal landscapes, technological advancements and changing NRI needs.

Concerned Authority: Department of Revenue, Government of India and IFSCA

[245] Sub-clause 2, Part II, Annexure I, AML Guidelines.
[246] Sub-clause 7, Part II, Annexure I, AML Guidelines.

Annexure 1 – AML Guidelines

[As provided under Annexure 1 - Guidance on CDD Procedures – Part 2, IFSCA (Anti Money Laundering, Counter Terrorist-Financing and Know Your Customer) Guidelines, 2022]

Guidance for verification of the identity of the customers

(1) Verification of identity through following documents

i. Passport,

ii. Driving license;

iii. Proof of possession of Aadhar number (for Indian Nationals):

iv. *Voter's* Identity Card issued by Election Commission of India (for Indian Nationals)

v. For foreign nationals, the national identity card and voter identification card, by whatever name called, issued by the Government of foreign jurisdictions or agencies authorized by them capturing the photograph, name, date of birth, and address of a foreign national shall also be considered as OVD

(2) where simplified measures are applied for verifying the identity of the customers, the following

(i) identity card with *applicant's* photograph issued by Central State Government Departments, Statutory Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions

(iI) letter issued by a gazetted officer, with a duly attested photograph of the person

(3) The Regulated Entity shall ensure that any document used for the purpose of verification of the identity *of the customer is an original document*

(4) In case a customer is unable to produce, or it might not be possible for the customer to submit original documents for verification (for example in situations where the Regulated Entity has no physical contact with the of customer is done through non-face to face mode), a Regulated Entity should obtain a copy of the OVD that is certified to be a true copy and such certification may be carried out by any one of the following;

i. Authorized official of a bank located in a (FATF) compliant jurisdiction with whom the individual has banking relationship,

ii. Notary Public (outside India);

iii. Court Magistrate (outside India);

iv. Judge (outside India);

v. Certified public or professional accountant (outside India);

vi. Lawyer (outside India);

vii. The Embassy Consulate General of the country of which the NR individual in a citizen, or

viii. any other authority as may be specified by the Authority.

(5) The person certifying the OVD should be contactable.

(6) Where certification of an OVD is done by the authorised officer of the Regulated Entity, such certified copy should be dated, signed, and marked with "original sighted verified.

(7) Where the simplified measures are applied for verifying the limited purpose of proof of address of the customer, where a prospective customer is unable to produce any proof of address, the following document shall also be deemed to be an OVD:

1. utility bill which is not more than two months old of any service provider (electricity, telephone, post-paid mobile phone, piped gas, water bill);
2. property, Municipal tax receipt, city council tax receipt, or such other equivalent document,
3. bank account or Post Office savings bank account statement or statement of foreign bank, (applicable only for low-risk customers);
4. pension or family Pension Payment Orders (PPOs) issued to retired employees by Government Departments or Public Sector Undertakings, if they contain the address:
5. letter of allotment of accommodation from employer issued by State Government or Central Government Departments, statutory or regulatory bodies, public sector undertakings, scheduled commercial banks, financial institutions, and listed companies and leave and
6. license agreements with such employers allotting official accommodation, and
7. Provided also that in case the OVD presented by a foreign national does not contain the details of address, the documents issued by the Government departments of foreign jurisdictions or letter issued by the Foreign Embassy or Mission in India shall be accepted as proof of address.

Annexure 2 (Consultation with Stakeholders)

S.No.	Name	Organisation
FME Meeting – Held on 19/01/2023		
1	Ashish Mohnot	HDFC AMC
2	Manish Makharia	Principal Officer, SBI
3	Yashpal Sharma	SBI Funds
4	Pooja Soni	DSP IM
5	Vaibhav	DSP IM
6	Dhaval Mody	DSP IM
7	Harshil Shah	Axis AMC
8	Jenith Thakkar	Mirae Asset
9	Lakshay Gupta	Mirae Asset
10	Preston Mendonca	Mirae Asset
11	Chirag Thakkar	Mirae Asset
12	Prashanth Rajaratnam	Mirae Asset
13	Ritesh Patel	Mirae Asset
14	Vaibhav Shah	Mirae Asset
Meeting with MNSS & Associates– Held on 22/01/2024		
1	Nehal Shah	Co-Founder and Partner MNSS & Associates
FinTech and TechFin Entities – Held on 06/02/2024		
1	Arpit	Signzy Technologies Private Limited
2	Ronak Doshi	Signzy Technologies Private Limited
3	Dhwaneet	Signzy Technologies Private Limited
4	Udit	Signzy Technologies Private Limited
5	Sagar Tanna	TSS Consultancy Private Limited
6	Pinky Makwana	TSS Consultancy Private Limited
7	Bhavana M	Gieom Business Solutions Private Limited
8	John Santosh	Gieom Business Solutions Private Limited
Bank of Baroda – Held on 07/02/2024		
1	Mr. Anil Chalana	Head Operations and Services (BOB)
2	Mr. Vineet Pathak	Financial Crime Compliance team (BOB)
3	Mr. Abel Vijayanand Lokku	Assistant General Manager (BOB, IBU, GIFT City)
4	Mr. Yogesh Jain	Assistant General Manager (BOB, IBU, GIFT City)
JP Morgan – Held on 13/02/2024		
1	Tracey Darb O'Sullivan	(US Office)
2	Samia Saeed	(US Office)
3	Joseph P Joyce	(UK Office)
4	Pranav Vyas	IBU Head
5	Somesh Singh	IBU Compliance Officer
Sarva Lab – Held on 15/03/2024		
1.	Bharadwaj Raghuraman	Chief Business Officer, Sarva Labs
HDFC AMC International (IFSC) Limited – 18/03/2024		
1.	Ashish Mohnot	Principal Officer, HDFC AMC International (IFSC) Limited

PRESS RELEASE

IFSCA constitutes a Working Group for the development of Non-Resident Individual Business and Ease of Registration

A Working Group led by IFSCA has been constituted for the development of Non-Resident Individual (both Indian as well as Foreign) Business and Ease of Registration. The Working Group comprises of industry experts having domain knowledge in the areas of capital market, asset management, banking, insurance, law, fintech, etc.

GIFT IFSC being a non-resident zone under Foreign Exchange Management Law, is uniquely positioned to act as an inbound & outbound gateway for investments into and outside of India.

The Working Group shall comprise of the following members:

S.No.	Name	Organization
1	Mr. Dipesh Shah	Executive Director, IFSCA
2	Mr. Kumar Raghuraman	Chief General Manager, IFSCA
3	Mr. Nilesh Shah	MD, Kotak Mahindra AMC
4	Mr. Nikhil Kamath	Co-founder, Zerodha
5	Mr. Nishith Desai	Founder, Nishith Desai Associates
6	Ms. Vibha Padalkar	MD & CEO, HDFC Life Insurance
7	Mr. V. Balasubramaniam	MD & CEO, NSE IFSC
8	Mr. Siddarth Pai	Founding Partner & CFO, 3one4 Capital
9	Mr. Sachin Kumar	Head – NRI Ecosystem & Remittances, ICICI
10	Ms. Mitali Joshi	Head, Offshore Products, HDFC
11	Mr. Anupam Guha	Business Head - Private Wealth Management & NRI Services, ICICI Securities

12	Mr. Dinesh Venkataraman	MD & Head of Strategy, Develop Bank of Singapore (DBS) India
13	Mr. David Perez	Head of Allfunds Asia
14	Ms. Shanti Mohan	Co-founder, LetsVenture
15	Mr. Jayesh Khaitan	India Head, Ascent Fund Services
16	Mr. Lalit Khanna	Head, AIECTA
17	Mr. Shaan Zaveri	Designated Partner, Terazo Fintech
18	Mr. Supriyo Bhattacharjee	Chief General Manager, IFSCA
19	Mr. Himanshu Jain	AGM, IFSCA (Member Secretary)

General Terms of Reference of the Working Group are as follows: -

(i) To undertake Global benchmarking of 3 financial centres with larger Non-Resident Individual businesses.
(ii) To provide suggestions to develop Non-Resident Individual (both Indian and Foreign) Businesses in GIFT IFSC.
(iii) To study the ease of registration in the identified global centres including digital onboarding processes along with risk mitigation measures.
(iv) To suggest measures for the Ease of Registration of Non-Resident Individuals, including physical and digital onboarding, and related processes from the ease of investing through IFSC in India and Overseas.
(v) Any other suggestions directly/indirectly linked to the mandate of the Working Group.

The Working Group shall submit its report along with the recommendations to IFSCA in three months' time.

Gandhinagar

October 06, 2023

F.No: 1091/IFSCA/Dev./Dev. NRI/2023-24 December 4, 2023

OFFICE MEMORANDUM

Subject: Nomination of Ms. Ranjana Sinha, DGM NRI Business from SBI in the Working Group for Development of Non-Resident Individual (both Indian and Foreign) Businesses and Ease of Registration.

In continuation to the OM of IFSCA dated October 06, 2023, the Competent Authority of IFSCA has approved the nomination of Ms. Ranjana Sinha, DGM NRI Business from SBI as one of the members of the Working Group constituted by IFSCA for the development of non-resident individual (both Indian and Foreign) businesses and ease of registration.

(Sathyaraj C M)
General Manager(Admin.)

To

1. All Members of the Working Group
2. Ms. Ranjana Sinha, DGM NRI Business, SBI

Copy to:

1. Office of Chairperson IFSCA
2. ED(Development)
3. DDO, IFSCA HQ
4. Office order file