

SECURITIES AND EXCHANGE BOARD OF INDIA (INTERNATIONAL FINANCIAL SERVICES CENTRES) GUIDELINES, 2015

Dated : March 27th, 2015.

In exercise of the powers conferred by section 11(1) of the Securities and Exchange Board of India Act, 1992 and sections 4 and 8A of the Securities Contracts (Regulation) Act, 1956 read with Section 18(2) of the Special Economic Zones Act, 2005, the Securities and Exchange Board of India hereby makes the following guidelines to facilitate and regulate financial services relating to securities market in an International Financial Services Centre set up under Section 18(1) of Special Economic Zones Act, 2005 and matters connected therewith or incidental thereto, namely:—

CHAPTER I PRELIMINARY

Short title and commencement.

1. (1) These guidelines may be called the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.
- (2) They shall come into force on April 01, 2015.

Definitions.

2. (1) In these guidelines, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them below, and their cognate expressions shall be construed accordingly,—

- (a) "Act" means the Securities and Exchange Board of India Act 1992;
- (b) "Board" means the Securities and Exchange Board of India established under the provisions of section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (c) "domestic company" means a company and includes a body corporate or corporation established under a Central or State legislation for the time being in force;
- (d) "financial institution" shall include:
 - (i) a company;
 - (ii) a firm;
 - (iii) an association of persons or a body of individuals, whether incorporated or not; or
 - (iv) any artificial juridical person, not falling within any of the preceding categories engaged in rendering financial services in securities market or dealing in securities market in any manner.

Explanation.- For the purpose of this clause and without prejudice to the generality of the foregoing, the expression financial institution shall include stock brokers and sub-brokers, merchant banks, mutual funds, alternative investment funds, stock exchanges, clearing

corporations, investment advisers, portfolio managers, or any other entity that may be specified by the Board.

- (e) "financial services" shall mean activities a financial institution is allowed to carry out as specified in the respective Act of the Parliament or by the Government of India or by any regulatory authority empowered to regulate the concerned financial institution;
- (f) "foreign jurisdiction" means a country, other than India, whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding (IOSCO's MMOU) (Appendix A signatories) or a signatory to bilateral Memorandum of Understanding with the Board, and which is not identified in the public statement of Financial Action Task Force as:
 - i. a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
 - ii. a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;
- (g) "intermediary" means and includes a stock broker, a merchant banker, a banker to an issue, a trustee of trust deed, a registrars to an issue, a share transfer agent, an underwriter, an investment adviser, a portfolio manager, a depository participant, a custodian of securities, a foreign portfolio investor, a credit rating agency, or any other intermediary or any person associated with the securities market, as may be specified by the Board from time to time;
- (h) "International Financial Services Centre" or "IFSC" shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;
- (i) "issuer" shall mean a company incorporated in India seeking to raise capital in foreign currency other than Indian rupee which has obtained requisite approval under Foreign Exchange Management Act, 1999 (FEMA) or exchange control regulations as may be applicable, or a company incorporated in a foreign jurisdiction;
- (j) "recognised entity" means any intermediary which is registered with the Board or registered or recognised with a regulator of a foreign jurisdiction:
Provided that such entities shall comply with fit and proper norms specified by the Board;
- (k) "securities laws" means the Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Depositories Act, 1996 (22 of 1996), provisions of Companies Act, 2013 administered by the Board and the rules, regulations, circulars, clarifications issued thereunder;

(2) Words and expressions used and not defined in these guidelines but defined in the Act, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996, Companies Act, 2013, the Special Economic Zones Act, 2005 or any rules or regulations made thereunder shall have the same

meanings respectively assigned to them in those Acts, rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

Applicability and scope.

3. (1) Any entity desirous of organising or assisting in organising any stock exchange or clearing corporation or depository, or desirous of undertaking any other financial services relating to securities market, shall be a recognised entity and such an entity shall seek permission of the Board in accordance with the norms specified herein or as may be specified by the Board, from time to time.

(2) Any entity desirous of operating in an IFSC for rendering financial services relating to securities market, shall comply with the provisions relating to registration or recognition, as the case may be, of applicable regulations of the Board:

Provided that certain entities shall be permitted to operate in IFSC subject to these guidelines.

(3) Save as otherwise provided in these Guidelines or as specified by the Board from time to time, all provisions of securities laws shall apply to a financial institution operating in an IFSC.

(4) These Guidelines shall be subject to the guidelines of Government of India on foreign investment.

CHAPTER II

STOCK EXCHANGES, CLEARING CORPORATIONS AND DEPOSITORIES

Eligibility and shareholding.

4. (1) ***Eligibility and shareholding limit for stock exchanges desirous of operating in IFSC :*** Any Indian recognised stock exchange or any stock exchange of a foreign jurisdiction may form a subsidiary to provide the services of stock exchange in IFSC where at least fifty one per cent. of paid up equity share capital is held by such exchange and remaining shares may be offered to any other recognised stock exchange, whether Indian or of foreign jurisdiction.

(2) ***Eligibility and shareholding limit for clearing corporations desirous of operating in IFSC :*** Any Indian recognised stock exchange or clearing corporation, or any recognised stock exchange or clearing corporation of a foreign jurisdiction may form a subsidiary to provide the services of clearing corporation in IFSC where at least fifty one per cent. of paid up equity share capital is held by such stock exchange or clearing corporation, and remaining shares may be held by any other recognised stock exchange or clearing corporation, whether Indian or of foreign jurisdiction.

(3) ***Eligibility and shareholding limit for depositories desirous of operating in IFSC :*** Any Indian registered depository or any regulated depository of a foreign jurisdiction may form a subsidiary to provide the depository services in IFSC where at least fifty one per cent. of paid up equity share capital is held by such depository and remaining shares may be offered to any other registered depository or recognised stock exchange or clearing corporation, whether Indian or of foreign jurisdiction.

(4) Every person who acquires equity shares of a recognised stock exchange or recognised clearing corporation or registered depository in IFSC shall inform the Board within fifteen days of such acquisition.

Net worth requirement of a permitted stock exchange, clearing corporation and depository.

5. (1) Every permitted stock exchange shall have a minimum networth equivalent of twenty five crore rupees initially and it shall enhance its networth to a minimum equivalent of one hundred crore rupees over the period of three years from the date of approval.

(2) Every permitted clearing corporation shall have a minimum networth equivalent of fifty crore rupees initially and it shall enhance its networth to a minimum equivalent of three hundred crore rupees over the period of three years from the date of approval.

(3) Every permitted depository shall have a minimum networth of twenty five crore rupees and it shall enhance its networth to a minimum equivalent of one hundred crore rupees over the period of three years from the date of approval.

Certain provisions not to apply.

6. (1) The provision of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 that every recognised stock exchange shall credit twenty five per cent. of its profits every year to the Fund, of the recognised clearing corporation(s) which clears and settles trades executed on that stock exchange shall not be applicable to the stock exchanges operating in IFSC.

(2) The provision of Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 that every depository shall credit twenty five per cent. of profits every year to the investor protection fund shall not be applicable to the depositories operating in IFSC.

(3) All the transitory provisions or relaxations that were provided to the stock exchanges and clearing corporations to comply with Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 shall not be applicable to stock exchanges and clearing corporations operating in IFSC.

(4) Provisions of Chapter IIA of Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 and Chapter V of Securities Contracts (Regulation) (Stock Exchanges And Clearing Corporations) Regulations 2012 shall not apply to depositories, stock exchanges, clearing corporations in IFSC, as the case may be:

Provided that depositories, stock exchanges, clearing corporations operating in IFSC shall adopt the broader principles of governance prescribed by International Organization of Securities Commissions (IOSCO) and principles for Financial Market Infrastructures (FMI) and such other governance norms as may be specified by the Board, from time to time.

Permissible securities.

7. The stock exchanges operating in IFSC may permit dealing in following types of securities and products in such securities in any currency other than Indian rupee, with a specified trading lot size on their trading platform subject to prior approval of the Board:

- (i) Equity shares of a company incorporated outside India;
- (ii) Depository receipt(s);
- (iii) Debt securities issued by eligible issuers;
- (iv) Currency and interest rate derivatives;
- (v) Index based derivatives;
- (vi) Such other securities as may be specified by the Board.

CHAPTER III INTERMEDIARIES

Approval.

8. Any recognised entity or entities desirous of operating in IFSC as an intermediary, may form a company to provide such financial services relating to securities market, as permitted by the Board.

Nature of clients.

9.(1) Any intermediary permitted by the Board for operating within the IFSC shall provide financial services to the following categories of clients:

- (i) a person not resident in India;
- (ii) a non-resident Indian;
- (iii) a financial institution resident in India who is eligible under FEMA to invest funds offshore, to the extent of outward investment permitted;
- (iv) a person resident in India who is eligible under FEMA, to invest funds offshore, to the extent allowed under the Liberalized Remittance Scheme of Reserve Bank of India, subject to a minimum investment as specified by the Board from time to time:

Provided that clients referred to in clauses (ii) to (iv) may be provided services, subject to guidelines of Reserve Bank of India.

(2) Any intermediary permitted by the Board for operating within the IFSC shall, for the purpose of enforcing compliance with regulatory requirements, appoint a senior management person as “Designated Officer”.

(3) In order to avail investment advisory or portfolio management services in IFSC, the client shall be:

- (i) a person resident outside India;
- (ii) a non-resident Indian;
- (iii) a financial institution resident in India who is eligible under FEMA to invest funds offshore, to the extent of outward investment permitted;
- (iv) a person resident in India having a net worth of at least US Dollar one million during the preceding financial year who is eligible under FEMA to invest funds offshore, to the extent allowed in the Liberalized Remittance Scheme of Reserve Bank of India:

Provided that clients referred to in clauses (ii) to (iv) may be provided services, subject to guidelines of Reserve Bank of India.

- (4) A portfolio manager operating in IFSC shall be permitted to invest in the following:
- (a) Securities which are listed in IFSC;
 - (b) Securities issued by companies incorporated in IFSC;
 - (c) Securities issued by companies belonging to foreign jurisdiction.

CHAPTER IV ISSUE OF CAPITAL

Raising capital.

10. (1) Domestic companies intending to raise capital, in a currency other than Indian Rupee, in an IFSC shall comply with the provisions of Foreign Currency Depository Receipts Scheme, 2014 notified *vide* F. No. 9/1/2013-ECB by Government of India on October 21, 2014.

(2) Companies of foreign jurisdiction, intending to raise capital, in a currency other than Indian Rupee, in an IFSC shall comply with the provisions of the Companies Act, 2013 and relevant provisions of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 as if the securities are being issued under Chapter X and XA of the said regulations, as may be applicable.

Listing and trading.

11. Companies, domestic or of foreign jurisdiction, may list and trade their securities as per norms specified by the Board.

CHAPTER V ISSUE OF DEBT SECURITIES

Eligible issuers.

12. (1) No issuer shall be eligible to issue debt securities, unless the following criteria are complied with:

- (a) The issuer is eligible to issue debt securities as per its constitution;
- (b) The issuer should not have been debarred by any regulatory authority in its home jurisdiction or any other jurisdiction, where it is operating or has raised any capital;
- (c) The issuer or its directors should not be convicted of any economic offence in its home jurisdiction or any other jurisdiction where it is operating or has raised any capital;
- (d) Any other criteria as may be specified by the Board.

Minimum subscription in case of private placement.

13. The minimum subscription amount in case of private placement per investor shall not be less than US Dollar hundred thousand or equivalent or such amount as may be specified by Board from time to time.

Mandatory listing.

14. An issuer desirous of issuing debt securities shall make an application for listing of such debt securities to one or more stock exchanges set up in IFSC.

General requirements.

15. The requirements such as appointment of trustee, creation of debenture redemption reserve etc. shall be as specified by the Board from time to time.

Advertisement for public issue.

16. Advertisement for debt issues within IFSC may be made in any print media.

Credit rating requirement

17. For debt issues within IFSC, the credit rating may be obtained either from a recognized credit rating agency registered with the Board or from any other credit rating agency registered in a foreign jurisdiction.

Agreement with depository or custodian.

18. (1) An issuer of debt securities shall enter into an agreement with a depository or custodian eligible to operate in IFSC for issue of the debt securities, for the purpose of holding and safekeeping of such securities and also to facilitate transfer, redemption and other corporate actions in respect of such debt securities.

(2) Necessary disclosure regarding appointment of depository or custodian shall be made in the information memorandum:

Provided, where the issuer has a registered office or branch office in IFSC, it may service investors from such office and need not appoint depository or custodian.

Reporting of financial statements.

19. The issuer of debt securities in IFSC shall prepare its statement of accounts in accordance with Companies Act, 2013 as applicable in IFSC.

Relaxation from listing agreement.

20. The issuer shall comply with the continuous listing requirements including corporate governance and such other conditions as specified in the listing agreement, entered into between the issuer and the stock exchange where such debt securities are sought to be listed:

Provided, where the securities of the issuer are already listed on another stock exchange whether foreign or domestic, and it complies with listing agreement in respect of such securities, the Board may modify or relax certain conditions or requirements with regard to listing agreement in respect of debt securities issued under these Guidelines.

Trading of debt securities.

21. The debt securities listed in stock exchanges shall be traded on the platform of the stock exchange and such trades shall be cleared and settled through clearing corporation set up in IFSC as specified.

CHAPTER VI FUNDS

Conditions on investment.

22. (1) In order to make an investment in an alternative investment fund or a mutual fund operating in IFSC, the investor shall be:

- (i) a person resident outside India;
- (ii) a non-resident Indian;
- (iii) institutional investor resident in India who is eligible under FEMA to invest funds offshore, to the extent of outward investment permitted;
- (iv) person resident in India having a net worth of at least US Dollar one million during the preceding financial year who is eligible under FEMA to invest funds offshore, to the extent allowed in the Liberalized Remittance Scheme of Reserve Bank of India:

Provided that investors referred to in clauses (ii) to (iv) may make an investment in an alternative investment fund or a mutual fund operating in IFSC, subject to guidelines of Reserve Bank of India.

(2) Any alternative investment fund or mutual fund operating in IFSC shall accept money from eligible investors only in foreign currency.

(3) Any alternative investment fund or mutual fund operating in IFSC shall be permitted to invest in the following:

- (a) Securities which are listed in IFSC;
- (b) Securities issued by companies incorporated in IFSC;
- (c) Securities issued by companies belonging to foreign jurisdiction.

(4) An asset management company of a mutual fund operating in IFSC shall have a net worth of not less than USD two million which shall be increased to USD ten million within three years of commencement of business in IFSC.

(5) The requirements such as appointment of trustee, custodian, manager, etc., shall be as specified by the Board.

(6) The requirements regarding raising of funds in foreign currency such as minimum investment amount, minimum corpus of fund, disclosures, investment conditions, valuations, types of schemes, professional qualifications, etc., shall be as specified by the Board.

CHAPTER VII MISCELLANEOUS

Maintenance of books, records and documents.

23. Every issuer, domestic company or a company of foreign jurisdiction or financial institution or intermediary, as the case may be, to whom these guidelines apply, shall maintain the books, records and documents as per the applicable regulations notified by the Board.

Sanction for violations.

24. Any contravention of these guidelines shall be dealt with by the Board in accordance with the securities laws.

Power to specify procedures, etc. and issue clarifications.

25. For the purposes of implementation of these guidelines and matters incidental thereto, or in order to facilitate and regulate financial services relating to securities market in an IFSC, the Board

may specify norms, procedures, processes, manners or provide relaxations, by way of guidance notes or circulars.

Power to remove difficulties.

26. In order to remove any difficulties in the interpretation or application of the provisions of these guidelines, or in order to facilitate and regulate financial services relating to securities market in an IFSC, the Board shall have the power to issue clarifications through guidance notes or circulars.