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Analysing developments impacting business

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY BILL 2019 INTRODUCES A UNIFIED REGULATOR FOR GIFT CITY

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The development of the International Financial Service Centre (IFSC) has been gaining significant momentum after a relatively sluggish start. Not only has there been critical mass in terms of number of players taking to it, but also the regulators have shown enough motivation to make this concept of an onshore IFSC successful. To this end, the each of the financial services regulators such as the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI), the Insurance Regulatory and Development Authority (IRDAI), and the Pension Fund Regulatory and Development Authority (PFRDA), have been fairly responsive to the need of the IFSC and have been implementing necessary changes to the existing IFSC regime as well as other onshore regimes in order to facilitate the growth and development of IFSC.

While at this stage, the Gujarat International Finance Tec-City (GIFT City) is the lone and exclusive IFSC which is operational in the country, but due to these collective efforts of the government, regulators and operators, the IFSC juggernaut has started rolling and is starting to show some early signs of success. The significant growth in the total assets of banks based out of GIFT City, or the noticeable increase in the trading turnover on the stock exchanges organised in GIFT City, or the growth in the number and value of international insurance policies written by insurers with presence in GIFT City are all clear indicators of this success, despite the early stage.

While an IFSC is a *de facto* deemed foreign jurisdiction for the purposes of foreign exchange law, the multitudinous financial services proffered by IFSCs warranted regulation of services in relation to banking, capital markets, insurance, and investment funds by a host of regulators, i.e. SEBI, RBI, IRDAI, PFRDA, etc. Such overlapping regulatory jurisdiction practically translated to a labyrinthine collection of circulars, notifications, clarifications, and amendments in the law, thereby posing hinderance in the supervision and implementation of law in IFSCs. Further, there have been some ambiguities for IFSC participants regarding registration with multiple regulators where services transgress jurisdiction of one regulator to the other, not only leading to reduced ease of doing business but more importantly to the risk of matters falling through the cracks; especially when they fall in-between jurisdictions of such separate regulators. A more comprehensive view of the regime by a regulator could further facilitate and expedite the growth of the IFSC to make them globally competitive.

In light of this, the stakeholders were eagerly anticipating the creation of a unified regulator for IFSC regime, drawing parallels with other global special economic zones like Dubai International Financial Centre and Singapore Financial Centre, which have a singular and independent regulatory authority and a comprehensive legal, regulatory and taxation framework. To alleviate these concerns, on 6 February 2019, the Union

Cabinet, approved the establishment of a unified authority for regulating all financial services rendered in IFSC regime. With an aim to augment the much sloganeered 'ease of doing business', a unified regulator for IFSC will align domestic IFSCs with any other international financial services centres and ensure targeted and cohesive regulation of IFSCs. The Government has now introduced the International Financial Services Centres Authority Bill 2019 (Bill) in the Rajya Sabha on 12 February 2019, for consideration. The Department of Economic Affairs (DEA) and Ministry of Finance (MoF) have drafted the Bill with the aim to set up a separate unified regulator (Authority) for IFSCs. The principal features of the Authority are as follows:

- Composition: The Authority will consist of a chairperson, members nominated by the RBI, SEBI, IRDAI, PFRDA, and the Central Government.
- Functions: The Authority will regulate such extant financial services, financial products and foreign institutions that have been approved by the above-mentioned regulators for IFSCs, and as may be further notified by the Central Government in this regard. The Authority also wields recommendatory power to advise the Central Government as to prospective financial services and products that may be proffered by IFSC.
- Power: Interestingly, the Authority has been bestowed with all the powers exercisable by RBI, SEBI, IRDAI, and PFRDA, etc., under the respective laws to be solely exercised by it. Such all-encompassing regulatory supervision makes the Authority independent and sufficiently fortified to regulate financial services in IFSCs. Further, the Central Government shall be empowered to make grants to the Authority for regulation of IFSCs.
- Regulation of processes and procedures: With what may be called a synchronised solution to the possible need for a new legislation for IFSC in its own right to regulate all financial services rendered at IFSC, the Bill proposes that all processes and procedures to be followed by the Authority will be governed in accordance with the provisions of the respective law applicable to financial products, services or institutions, as the case may be. Such continuation of applicability of the extant legal and regulatory regime over financial services and products will not only preserve the status quo of applicable law, but will also ensure that the Authority, in lieu of its composition, is adequately familiar and conversant with the relevant processes, policies and procedures required for supervising such financial products, institutions, and services in IFSC. However, while IFSCs shall be presently governed by the existing laws governing financial services and products in IFSC, it will be interesting to see whether an independent legislative framework streamlining the varied approvals and registration required under different regulations will be introduced in future.
- Transactions in foreign currency: Transactions of financial services in IFSCs shall be carried out in the foreign currency as specified by the Authority in consultation with the Central Government.

With the objective of making India a one-stop destination for financial services and transactions that are typically effectuated offshore, Gujarat International Finance Tec-City (GIFT City) has certainly made significant strides towards facilitating lucrative access to the global financial services milieu for corporate entities, financial service providers, investment funds, etc. that are set up in India. However, the Bill seems to address preliminary concerns that arise in terms of regulation of the wide-ranging financial services, products and institutions housed in IFSCs. While such proposals in the Bill are largely modelled on global international financial services centres, this is undeniably a very prominent and positive leap towards a more dynamic IFSC regime in India, facilitating streamlined regulation for all financial participants in IFSC by obviating the pre-existing confusion as overlapping regulatory supervision by different regulators. Such a unified regulator will provide impetus to IFSCs to retain foreign

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capital that was originally routed through other offshore financial services centres and catalyse the strengthening of India's global position as a more mature, eminent, and business-friendly jurisdiction for financial services.

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