

## Regulatory Alert

9 December 2020

### IFSC Authority simplifies opening and maintenance of foreign currency bank account in IFSC by notification of International Financial Services Centres Authority (Banking) Regulations, 2020

The International Financial Services Centres Authority has recently notified the International Financial Services Centres Authority (Banking) Regulations, 2020 ('IFSCA Banking Regulations')<sup>1</sup> for regulating banking and investment activities in GIFT International Financial Services Centre (IFSC). IFSCA Banking Regulations aim to relax the existing framework<sup>2</sup> for IFSC Banking Units as well as extend the possibility to open and maintain a foreign currency bank account even to Indian residents. This alert summarizes some of the important updates in this regard.

#### Categories of persons permitted to open bank account in IFSC

As per the said Regulations, the following categories of persons are now permitted to open, hold and maintain accounts in a freely convertible foreign currency with a banking unit in IFSC:

- Indian resident individuals having net-worth of at least USD 1 million or equivalent in the preceding financial year
- Non-resident individuals having a net-worth of at least USD 1 million or equivalent in the preceding financial year
- Resident corporate and institutional entities
- Non-resident corporate and institutional entities

Individuals are permitted to open, hold and maintain current or savings or term deposit accounts while others are permitted to open, hold and maintain current or term deposit accounts.

However, it may be noted that the opening of such accounts by resident individuals and corporates shall be further subject to the FEMA (Foreign Currency Accounts by a Person Resident in India) Regulations, 2015.

<sup>1</sup> Notification No. IFSCA/2020-21/GN/REG004 dated 18<sup>th</sup> November 2020

<sup>2</sup> RBI/2014-15/533 DOR.IBD.BC.14570/23.13.004/2014-15 dated 1<sup>st</sup> April 2015

## Transactions permitted through bank accounts in IFSC

Indian resident individuals can use such bank accounts for undertaking transactions connected with or arising from any permissible current or capital account transaction or a combination of both as specified in the Liberalized Remittance Scheme (LRS).

Currently, capital account transactions such as opening of foreign currency account with a bank abroad, acquisition and holding shares of both listed and unlisted overseas company or debt instrument, investment in units of Mutual Funds, Venture Capital Funds, unrated debt securities, promissory notes are permissible under LRS. Remittances for margins or margin calls to overseas exchanges / overseas counterparty are not allowed under LRS.

## Relaxation for IBUs

The IFSCA Banking Regulations also relaxes the existing framework<sup>2</sup> for setting up and operation of IFSC Banking Units (IBUs). As per the existing framework, IBUs were not permitted to raise funds from residents and merely deployment of funds was permitted with residents. Further, for both raising of resources and deployment of funds, IBUs were only permitted to transact with non-resident entities other than individuals / retail customers / high net-worth individuals (HNIs). IBUs were also not permitted to open any current or savings accounts except opening of foreign currency current accounts of units operating in IFSC, corporate borrowers and non-resident institutional investors to facilitate their investment transactions.

The IFSCA Banking Regulations which supersede the existing framework for setting up and operation of IBUs are in line with the report of the IFSC International Retail Business Development Committee wherein it was recommended that:

- IBUs should be permitted to provide banking products and solutions to retail / individual clients.

- Clients should be permitted to open interest bearing retail accounts such as savings, current and term deposits in the currency of their choice.
- Resident individuals and resident family office entities should be allowed to access the LRS route for remittance purposes.
- Resident individuals should be permitted to invest in companies listed on IFSC exchanges via the LRS route.

## Other amendments for IBUs

Apart from the above, the IFSCA Banking Regulations also stipulate other regulatory requirements for Banks for setting up of banking unit in IFSC, prudential regulatory requirements, operational requirements and permissible activities for such banking units in IFSC.

## Aurtus Comments

The IFSCA Banking Regulations shall facilitate cross border transactions of residents and enable more investors to participate in IFSC as follows:

- Opening of bank accounts by high net-worth resident individuals with banking units in IFSC for their LRS transactions shall eliminate the challenges connected with opening of bank account with foreign banks in foreign jurisdictions for executing such transactions.
- Resident individuals may also invest in permitted securities listed on exchanges in IFSC under LRS route. While such investments would not attract transaction costs such as securities transaction tax and commodity transaction tax, stamp duty, however, capital gains tax shall continue to apply on transfer of such investments.
- High net-worth non-resident individuals can also open bank account in IFSC for facilitating their investment transactions in IFSC. Capital gains arising to non-residents on transfer of specified securities on exchanges in IFSC are exempt from capital gains tax in India.

- Resident corporate entities may open bank accounts in IFSC in the name of their office or branch set up outside India or representative posted outside India. Resident corporates can also open foreign currency account in IFSC for making overseas direct investment, holding proceeds of External Commercial Borrowings (ECB) / American Depositary Receipts (ADRs) /

Global Depositary Receipts (GDRs) till their utilization or repatriation to India and other purposes specified in FEMA (Foreign Currency Accounts by a Person Resident in India) Regulations, 2015.

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