



## ERGO

*Analysing developments impacting business*

### ALL NEWS IS GOOD NEWS FOR GIFT CITY: MORE RELAXATIONS FOR IFSC INTRODUCED

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With the introduction of Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations 2019 (FPI Regulations 2019), the regulator has renewed its commitment towards bolstering development of the International Financial Services Centre (IFSC) at the Gujarat International Finance Tec-City (GIFT City) as an attractive investment regime. The FPI Regulations 2019 now expressly include provisions in relation to registration of entities in IFSC as foreign portfolio investors (FPI) with the Securities and Exchange Board of India (SEBI). The FPI Regulations 2019 have extended certain leeway to entities established in IFSC, in terms of the eligibility norms required to be fulfilled by FPIs for registration with SEBI.

- *Exemption in eligibility criteria for FPIs in IFSC:* Certain eligibility norms in relation to the registration of an applicant with SEBI as an FPI, under Regulation 4 of the FPI Regulations 2019, i.e. the applicant should (a) not be a resident Indian, (b) be a resident of the country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding or a signatory to the bilateral Memorandum of Understanding with SEBI; and (c) in case the applicant is a bank, then it should be a resident of a country whose central bank is a member of the Bank for International Settlements, have been exempted for applicants incorporated or established in IFSC.

Further, explanation to Regulation 5 of the FPI Regulations 2019 now provides that an applicant incorporated or established in IFSC shall be deemed to be appropriately regulated, for the purposes of the FPI Regulations 2019.

*Comment:* Entities and funds operating in IFSC may now register with SEBI as an FPI under the FPI Regulations 2019. Further, exemptions provided for FPI applicants already operating in IFSC in relation to the eligibility criteria for FPIs also adds to the long list of benefits offered by IFSC to foreign investors. A pertinent point to note in this regard is that as per the SEBI circular IMD/HO/FPIC/CIR/P/ 2017/ 003 dated 4 January 2017, FPIs registered with SEBI and eligible foreign investors (EFIs) were permitted to operate in IFSC. Therefore, the position whether resident Indian entities established in IFSC were eligible to be registered with SEBI as FPIs was ambiguous. With the exemption extended by the FPI Regulations 2019 to IFSC entities in relation to the condition that required the FPI applicant not to be a resident Indian, the position that all entities set up in IFSC, being both resident and non-resident can register as FPIs with SEBI, subject to the FPI Regulations 2019, has become clearer. Further, all entities that are established or incorporated in IFSC will automatically qualify to be appropriately regulated, without having to separately

satisfy the 'appropriately regulated' test, for registration with SEBI as an FPI under the FPI Regulations 2019.

- Listing of depository receipts in IFSC: Further, in addition to the above, Ministry of Finance recently amended the Depository Receipts Scheme 2014 (Scheme) vide notification F. No. 9/1/2013-ECB(Pt-2) dated 7 October 2019, whereby it has now included IFSC in the list of permissible jurisdictions under Schedule 1 of the Scheme, enabling Indian companies to list their depository receipts on international stock exchanges operating in IFSC. This move will facilitate offshore fund raising for Indian companies, through IFSC stock exchanges.

However, it is notable that the investment funds industry is still eagerly awaiting for some respite in relation to the existing requirement for non-resident investors investing in IFSC AIFs to obtain a permanent account number, especially in light of the fact that an exemption has been granted to non-resident investors investing in Category I and Category II AIFs in IFSC, from the requirement of filing of income tax returns subject to certain conditions under the (Indian) Income Tax Act 1961, as per notification no. 55/2019, dated 26-07-2019 issued by the Central Board of Direct Taxes. However, in light of the above-mentioned regulatory developments in relation to FPIs in IFSC, it seems that the government's dream of "onshoring the offshore" funds has certainly taken a step closer to reality.

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