

Public Comments

The consultation paper on seeking comments/views of public on the draft IFSCA (Management Control, Administrative Control and Market Conduct of Insurance Business) Regulations 2023 was issued by IFSCA on 21.02.2023.

The following comments have received:

Sr. No.	Draft Reg. No.	Sub-Regu No. /Para No.	Comments / Suggestions / Suggested modifications	Rationale
1	1	3	Unincorporated IIOs transacting reinsurance business should be exempted form the applicability of these regulations.	Considering the nature of Business, an reinsurance unincorporated IIO should be explicitly exempted form these regulations.
2	1	(3)	<p>These regulations are applicable to all International Financial Services Centres Insurance Offices (IIOs), and also to the International Insurance Intermediary Offices (IIIOs) to the extent specified hereunder.</p> <p>We recommend amendments of this clause as following:</p> <p>These regulations are applicable to all International Financial Services Centres Insurance Offices (IIOs) except IIOs in an unincorporated form, and also, to the International Insurance Intermediary Offices (IIIOs) to the extent specified hereunder.</p>	For an IIO in an unincorporated form, the norms/ guidelines on capital structure, expenses of management, commission payment, advertisement and disclosures, protection of policyholders' interest, etc. as specified by the home country regulator or supervisory authority of its parent entity shall be applicable.

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3	3	1(h)	Sub-regulation is suggested to be modified as “confidential information” for the purposes of these regulations, with regard to a foreign entity shall mean information obtained from the foreign entity that cannot be made available to in public domain regarding which the concerned foreign entity has requested that secrecy be maintained either explicitly or under any agreement / Memorandum of Understanding to which both the foreign entity and the Authority are signatories.	Made typographical changes in the sub regulation
4	3	1(i)	Sub-regulation to be modified as “confidential information” for the purposes of these regulations, with regard to domestic entity shall be as defined in applicable domestic laws.	Made typographical changes in the sub regulation.

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5	3	1(i)	<p>Sub-regulation to be modified as ‘custodian of information’</p> <p>shall mean an officer designated as ‘custodian of information’ not below the rank of Deputy General Manager of the Authority in whose custody the confidential information is kept under lock and key away from public view and without whose authority and approval, such information cannot be released or accessed;</p>	
6	3	1(k) Definition of EoM	<p>It is suggested to modify the definition as mentioned below:</p> <p>“Expenses of Management” shall include all expenses in the nature of operating expenses including commission, brokerage / remuneration to the insurance agents, intermediaries and insurance intermediaries which are charged to Revenue Account, including commission and expenses reimbursed on inward reinsurance.</p> <p>Explanation: charge against profits such as income tax and other taxes like Goods and Service Tax(GST) borne by the IIO and other charges which are levied against the profits shall not form part of EoM;</p>	The said suggestion is made to align the definition of ‘expenses of management’ with that specified by IRDAI
7	5		These provisions should be aligned to the regulations issued by the IRDAI viz. (Registration of Indian Insurance	The extant norms specified under the IFSCA’s draft regulations may be made applicable only to those

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			Companies) Regulation 2022, IRDAI (Other Forms of Capital) Regulations 2022 and other applicable Regulations.	<p>Insurers who are incorporated in IFSC however for insurers operating as 'branch office' of an insurer incorporated and registered with IRDAI, be allowed to continue the extant norms applicable to its parent entity.</p> <p>Current IRDAI (Registration of Indian Insurance Companies) Regulation 2022 specify that Regulation 6 (b) Prior approval of IRDAI is required for transfer of shares resulting into change in shareholding where: the nominal value of shares intended to be transferred, jointly or severally, exceeds 1% of paid-up equity capital of insurer (or) after the transfer, the total paid-up holding of the transferee in the shares of insurer is likely to exceed 5% of its paid-up capital</p> <p>Further, IRDAI (Other Forms of Capital) Regulations 2022 also dispenses the requirement of obtaining prior approval of IRDAI for raising other forms of capital.</p>
8	9	4	<p>It is suggested to modify the clause as mentioned below:</p> <p>The Authority may specify manner and form for submission of accounting year wise, expenses of management.</p>	The segment wise limits are restrictive in nature. Further IRDAI is also in the process of doing away with the segmental limits. Accordingly it is advised to modify the clause and omit the reference to segmental limits.

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9	9	--	<p>It is suggested to insert the following Proviso:</p> <p>Provided further that IIOs, in an unincorporated form, may adopt Board approved policy of its parent entity, if the standards specified under sub-regulation are covered thereunder.</p>	<p>It is suggested to prescribe a specific carve out for unincorporated entity to bring in more clarity.</p>
10	10	--	<p>It is suggested to insert the following Proviso:</p> <p>Provided further that IIOs, in an unincorporated form, may adopt Board approved policy of its parent entity, if the standards specified under sub-regulation are covered thereunder.</p>	<p>It is suggested to prescribe a specific carve out for unincorporated entity to bring in more clarity.</p>
11	11	New provision	<p>It is suggested to insert the following clause:</p> <p>(5) The provisions of this Regulation would be applicable to an IIO set up in an incorporated form only.</p>	<p>It is suggested to prescribe a specific carve out for unincorporated entity to bring in more clarity.</p>
12	12	--	<p>It is suggested to insert the following Proviso:</p> <p>Provided further that IIOs, in an unincorporated form, may adopt Board approved policy of its parent entity, if the requirements specified under sub-regulation are covered thereunder.</p>	<p>It is suggested to prescribe a specific carve out for unincorporated entity to bring in more clarity.</p>

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13	13	2	<p>It is suggested to modify the clause as mentioned below:</p> <p>Where an IIO need to share data with any entity for outsourcing of activities or for any other reason, they are required to have proper non-disclosure agreements and/or relevant clauses in the service level agreement for confidentiality and data protection purposes.</p>	The changes are recommended to provide clarity.
14	14	3	<p>It is advised to modify the subject line as mentioned below:</p> <p>Information sought for carrying our out statutory and regulatory purposes from -</p>	Made typographical changes in the regulation heading.
15	18	2	<p>It is advised to include sub-point (i) as mentioned below:</p> <p>"(i) comply with applicable laws and regulations, as applicable in their respective jurisdictions,"</p>	This ensures that all advertisements are in compliance with applicable laws as IIO business maybe in inter-jurisdictional.
16	19	1	<p>It is suggested to insert the following Proviso:</p> <p>Provided further that IIOs, in an unincorporated form, may adopt Board approved policy of its parent entity, if the standards specified under sub-regulation are covered thereunder.</p>	It is suggested to prescribe a specific carve out for unincorporated entity to bring in more clarity.

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17	19	(2) Every IIO shall display the service parameters and turnaround times as approved by the Board on its website and keep the same updated as and when the service parameters are revised by the Board	It is hereby suggested to insert the following proviso: Provided further that IIOs, in an unincorporated form, may follow parent entity, if the requirements specified under sub-regulation are covered thereunder.	It is suggested to prescribe a specific carve out for unincorporated entity to bring in more clarity.
18	23	3	It is suggested to enhance the time period specified in the Regulation for implementation from three months to six months.	The additional time will allow the IIO or the IIIO to properly ensure that it starts complying with the additional requirements considering the fact the IIO and the IIIO business pertains to multiple geographies. The implementation would involve formulating policies, processes and procedures which requires significant time and necessary changes in the existing infrastructure. It is therefore requested that the Authority may enhance the time period as proposed in the Draft regulations.

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19	3,4,8	--	In the draft regulation the term “portfolio” is mentioned multiple times in the Consultation Paper but specific definition is not provided. Therefore, it is suggested to include the definition of the term “portfolio” in the Regulations	For better clarity / understanding
20	9 &12		<p>1. The provisions on expenses of management should be aligned to the changes proposed by IRDAI in the exposure draft regulations on expenses of management, which is expected to be issued in this year.</p> <p>2. Insurers have to comply with multiple regulations for opening or closure of place of business/ office in IFSC. It has to adhere with the Places of Business Regulations issued by IRDAI and the subject Regulations issued by IFSCA.</p> <p>As there are some different requirements under both the Regulations, we recommend that non-obstante clause be provided stating the exemption from compliance of other requirements under any other regulations.</p>	To align the provisions under multiple regulations.

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21		New provision	It is suggested that there needs to be a specific carve out for incorporated and unincorporated entities.	In case of an unincorporated entity such as a branch established in an IIO, the management and administrative control would vests with the Parent entity. It would be operationally challenging for a branch office to have its separate shareholding pattern or take approvals for change in management or follow a different methodology for computing expenses of management etc. Accordingly it is suggested to prescribe a specific carve out for unincorporated entity wherever applicable.

The above comments were considered suitably and the revised draft of the IFSCA (Management Control, Administrative Control and Market Conduct of Insurance Business) Regulations, 2023 was placed before the Authority in its meeting held on March 24, 2023.