

## Public Comments

The consultation paper seeking comments/views from public on the draft IFSCA (Insurance Web Aggregator) Regulations, 2021 was issued by IFSCA on November 30, 2021.

The following comments have been received:

| S. No. | Page no. of draft Regu | Reg. No.        | Sub- Regu. No. | Comments / Suggestions / Suggested modifications   | Rationale   |
|--------|------------------------|-----------------|----------------|--|---|
| 1.     | 2                      | 3               | (1)b(iii)      | Clarification to be added to explanation to definition of "Applicant", on whether a body incorporated outside India is required to form a company or limited liability partnership within India or in IFSC in order to make application for registration as a Web Aggregator. Alternatively, the explanation may be turned into a sub-regulation under regulation 3(1)(b) clearly indicating that bodies incorporated outside India would be required to set up companies or limited liability partnership in IFSC in order to apply for registration as an IFSC Web Aggregator ("IWA"). | It is not clear whether a body incorporated outside India will be permitted to apply under the draft regulations if it is incorporated as a company outside of India. Lack of clarification in this regard may deter foreign applicants. Further, it is essential to clarify in which manner foreign entities may be permitted to apply under the draft regulations. Including foreign applicants as a separate category will make the intent of the draft regulations clearer. |
| 2.     | 3                      | 3<br>Sch.<br>13 | (f)            | Would Distance Marketing be permitted within India, as a jurisdiction?   | It may be helpful to get a clarify on whether the scope of business of IWA would include India as a jurisdiction as well?   |
| 3.     | 3                      | 3               | (g)            | Clarification is required in relation to the definition of "Insurer". The definition seems to imply that an IWA is allowed to enter into agreements with insurers/reinsurers based within the IFSC (IFSC Insurance Office), as well as insurers and reinsurers registered outside India. If the implication is correct, this should be further clarified.  | If the intention is to allow foreign insurers and reinsurers to enter into agreements with IWAs, it is recommended that it be clarified in the draft regulations. In such event, the scope of operation of the IWA would also need to be clarified. <i>(Please refer to point 15 of this document)</i>  |

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| 4. | 4 | 3 | (p)  | Would solicitation be permitted from customer base (prospect) in India (domestic tariff area)?  | Similar as at #2 above.  |
| 5. | 4 | 3 | (q)  | Can only an entity registered under Indian laws be used as a "Telemarketer"?  | The current definition of the term "Telemarketer" does not provide for any scope to engage a telemarketer outside India.<br>Similar concepts may need to be read into Schedule 13 (particularly paragraph 3).<br>Separately we note that Schedule 9 requires the Authorised Verifier (being on the roles of a Telemarketer) to be resident in India. On this basis, please clarify is the scope of work of such Telemarketer to source business from prospects in India?                   |
| 6. | 5 | 4 | (iv) | Clarification is required on whether the meaning terms "any other regulatory or supervisory authority" would include only the IRDAI, or regulatory authorities in foreign countries as well. If so, the sub- regulation should be modified to include language indicating that it also includes those intermediary entities in foreign countries carrying on similar activities, by whatever name called. | The classification of the intermediary entities mentioned in the sub-regulation, i.e. insurance agent, corporate agent, micro-insurance agent etc. might differ in foreign countries. Therefore, it is ideal to ensure that a broader ambit of intermediaries is captured in the eligibility criteria. Since entities carrying out activities other than that of a web aggregator are prohibited from applying, it is imperative to capture all possibilities of such ineligible entities. |
| 7. | 5 | 4 | (iv) | The sub-regulation should be modified such that "designated website hosted on server based in India" is replaced with "designated website hosted on server based in the IFSC".  | Since the IWA is supposed to be an entity based in the IFSC, it is recommended that that the servers of the designated website of the IWA should also be based in the IFSC.<br>Also, worth clarifying the data protection laws, if any, that should be specifically followed.  |

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| 8.  | 6  | 4  | (xiv) and (xv) | <p>Most of these officers would ordinarily be appointed only after the registration to do business as IWA is received from IFSCA. Therefore, please clarify that an undertaking can be provided initially, and appropriate intimations done at a later stage, once such personnel are appointed by the IWA, post receipt of registration.</p> <p>Consequential changes may also be required to make the filling of information in Schedule 1 (particularly relating to KMPs in #3.3 and #5.2) optional.</p> | <p>Ordinarily, there may be some time gap between receipt of necessary registrations and commencement of business. Therefore, not all of these officers will have been appointed at the time of making the application by the applicant.</p>                        |
| 9.  | 7  | 6  | (ii)           | <p>To clarify that the IWA is required to comply with the provisions of the Insurance Act, 1938, only to the extent applicable in IFSC.</p>   | <p>Ordinarily, a non-resident IWA only set up in IFSC may not be subject to the Insurance Act, 1938. Is it the intention for the IWA to adhere to the Insurance Act, 1938 only to the extent applicable in IFSC? It may be helpful to have this clarified.</p>      |
| 10. | 8  | 7  | (5)            | <p>Would there be a right to appeal against any such refusal to grant registration?</p>   | <p>It may be in the interest of business and boosting investor confidence, to clarify the recourse available to an aggrieved IWA within the IFSC system.</p>  |
| 11. | 9  | 8  | (3)            | <p>The sub-regulations should clarify whether the restriction on creating encumbrances on shares of the applicant, in the case of applicants incorporated outside India, would not be applicable to the shareholding of the parent entity based in its home country, and will only apply to the capital held in the company/LLP that would be required to be set up in the IFSC.</p>  | <p>It may not be possible to enforce any such restriction against encumbrance of share capital of foreign incorporated entities as it might conflict with the regulatory regime in the foreign country. It is imperative that such distinction be made upfront.</p> |
| 12. | 11 | 10 | (3)            | <p>Would there be a right to appeal against any such refusal to renew?</p>  | <p>It may be good to clarify the recourse available to an aggrieved IWA within the IFSC system.</p>   |

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| 13. | 12 | 13 | --  | <p>Any change in beneficial ownership of shares or contribution and control of the IWA requires approval of IFSCA. There is no clarification on a threshold that constitutes such changes in ownership or control.</p> <p>Also, this does not provide a carve out for any involuntary change in ownership or control.</p> | <p>Does IFSCA expect the IWA to seek approval for every change in ownership or only majority ownership. There may be financial investments made in the IWA which should be exempted from approval requirement unless the same result in change in "control". The term control also needs to be defined.</p> <p>There may be involuntary change in ownership such as on transmission or indirect change (in the form of involuntary transfers) in the promoter holding. Would each of these also require the IWA to seek IFSCA approval?</p> |
| 14. | 13 | 17 | (b) | <p>Please clarify what is intended to be covered and/or restricted by IFSCA in terms of approving the arrangements for distribution of products by IWA</p>  | <p>Clarity on business aspects is appreciable, in order to avoid any surprises from operational perspective.</p>  |
| 15. | 13 | 18 | -   | <p>Regulation 18 needs to be modified to include a construct to prohibit IWAs from favouring or pushing forward insurance products of a particular insurer.</p>   | <p>Conflict of interest in IWA-insurer relationship will arise in the event the IWA seeks to show preference for the products of one particular insurer for any reason whatsoever. This will lead to prospective policyholders being negatively impacted. It should be the duty of the IWA to show the products of all their empanelled insurers in an impartial manner to offer prospective customers to choose the product that best suits their needs.</p>   |
| 16. | -  | -  | -   | <p>The draft regulations do not clarify the scope of operation of the IWA. A provision should be incorporated specifying the geographical areas to which the IWA can cater.</p>   | <p>It is pertinent to clarify the scope of operation from the perspective of an IWA. Considering that the IFSC Insurance Offices and the IFSC Insurance Intermediary Offices can only operate within the IFSC, other SEZs in India and anywhere outside India, it is prudent to make this clarification upfront for avoidance of doubt and confusion.</p>   |
| 17  | -  | -  | -   | <p>No Comments to officer on consultation paper</p>   | <p>N.A.</p>   |