

Consultation paper on the proposed International Financial Services Authority (Registration of Factors and Registration of Assignment of Receivables) Regulations, 2024

Objective:

The objective of this consultation paper is to seek comments/views/suggestions from the public on the proposed International Financial Services Authority (Registration of Factors and Registration of Assignment of Receivables) Regulations, 2024 (“the Regulations”).

Background:

1. As on date factoring transactions in IFSC are undertaken on the basis of the Registration of Factors (Reserve Bank) Regulations, 2022 and the circular titled ‘Guidelines on Factoring and Forfeiting of Receivables’ dated August 17, 2021, issued by the Authority. Similarly, assignment of receivables is covered by the the Registration of Assignment of Receivables (Reserve Bank) Regulations, 2022.

2. Section 3 read with Section 31A of the Factoring Regulation Act, 2011 (12 of 2012) and Section 13(1) of the International Financial Services Centres Authority Act, 2019 (IFSCA Act, 2019) now empowers the Authority to make regulations pertaining to the manner of granting Certificate of Registration to factors which propose to do factoring business in IFSC and manner of filing of particulars of assignment of receivables in such transactions with the Central Registry by a Trade Receivable Discounting System (TReDS) on behalf of Factors.

3. In exercise of the above powers the Authority proposes to notify the Regulations appended to this consultation paper.

4. The Regulations, inter alia, proposes to:

a) Lay down the manner of granting Certificate of Registration to factors which propose to do factoring business in IFSC.

b) Lay down the manner of filing of particulars of assignment of receivables in such transactions with the Central Registry by a Trade Receivable Discounting System (TReDS), registered with the Authority, on behalf of Factors.

5. On notification of the appended regulations, the Registration of Factors (Reserve Bank) Regulations, 2022 and the Registration of Assignment of Receivables (Reserve Bank) Regulations, 2022 shall become inapplicable to factoring transactions in IFSC and the the circular titled ‘Guidelines on Factoring and Forfeiting of Receivables’ dated August 17, 2021, issued by the Authority shall stand repealed.

6. A draft of the Regulations is placed on the website of the IFSCA at <https://ifsc.gov.in/PublicConsultation>. General public and stakeholders are requested to forward their comments/suggestions through e-mail to Mr. Supriyo Bhattacharjee at supriyo.b@ifsc.gov.in and Ms. Riddhi Bhandari at riddhi.bhandari@ifsc.gov.in and Mr. T P Samuel Wesley at wesly.samuel@ifsc.gov.in; on or before September 20, 2024, in the attached format. The comments may be provided in MS Word or MS Excel format only.

Format for providing comments/suggestions

Proposed IFSCA (Registration of Factors and Registration of Assignment of Receivables) Regulations, 2024

Name, Designation of the person				
Contact NO.				
Name of Organisation				
Page No. of Draft Regulation	Reg No.	Sub-Regulation No./ Para No.	Comments/Suggestions/Suggested modifications	Rationale

International Financial Services Centres Authority (Registration of Factors and Registration of Assignment of Receivables) Regulations, 2024

In exercise of the powers conferred under sub-section (4) of section 3 read with clause (a) and (b) of sub-section (2) of Section 31A of the Factoring Regulation Act, 2011 (12 of 2012) and sub-section (1) of Section 13 of the International Financial Services Centres Authority Act, 2019 (50 of 2019), the International Financial Services Centres Authority, hereby makes the following regulations namely: -

CHAPTER I

PRELIMINARY

1. Short title and commencement

1. These regulations may be called the International Financial Services Centres Authority (Registration of Factors and Registration of Assignment of Receivables) Regulations, 2024.
2. These regulations shall come into force on the date of their publication in the Official Gazette.

2. Objective

These regulations aim to provide for the manner of:

1. granting certificate of registration to Factors; and
2. filing of particulars of transactions with the Central Registry on behalf of the Factors under sub-section (1A) of section 19 of the Factoring Regulation Act, 2011 (12 of 2012).

3. Definitions

1. In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings as assigned to them herein below:

- a. "Act" means the Factoring Regulation Act, 2011 (12 of 2012);

- b. "Authority" means the International Financial Services Centres Authority established under sub-section (1) of Section 4 of the International Financial Services Centres Authority Act, 2019;
 - c. "Central Registrar" means a person appointed as such under subsection (1) of section 21 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - d. "Central Registry" means the Central Registry set up under section 20 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - e. "Factor" shall have the meaning assigned to it in clause (i) of section 2 of the Act;
 - f. "Finance Company" shall have the meaning assigned to it under clause (e) of sub-regulation (1) of regulation 2 of the International Financial Services Centres Authority (Finance Company) Regulations, 2021;
 - g. International Financial Services Centre (IFSC)" shall have the meaning assigned to it in clause (g) of sub-section (1) of section 3 of the International Financial Services Centres Authority Act, 2019.
2. Words and expressions used and not defined in these regulations but defined in the Act, International Financial Services Centres Authority Act, 2019 (50 of 2019), the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) or any rules or regulations made thereunder shall have the same meanings respectively assigned to them in those Acts, rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

CHAPTER - II

REGISTRATION OF FACTORS

4. Procedure for grant of certificate of registration

1. Every Factor, except a bank or any corporation established under an Act of Parliament or State Legislature, or a Government Company' intending to commence factoring business in IFSC shall make an application to the Authority, for grant of certificate of registration, in such format, as may be specified by the Authority.
2. After considering the application made under sub-regulation (1), the Authority may grant certificate of registration to the Factor intending to commence factoring business in IFSC, subject to such conditions, as the Authority deems fit.

3. Any certificate of registration granted by the Authority to a Finance Company or Finance Unit for undertaking factoring business, prior to the commencement of these regulations, shall be deemed to be granted under these regulations and such Finance Company or Finance Unit shall comply with all applicable provisions of these regulations.
4. A Factor which has been granted certificate of registration under these regulations shall commence its factoring business within six months from the date of such grant of certificate of registration.

5. Conduct of business and reporting

1. A Factor shall conduct its factoring business in accordance with the provisions of the Act, rules and regulations framed thereunder, and any directions or guidelines issued by the Authority.
2. A Factor shall furnish information relating to its operations, along with any other information, to the Authority in such manner, interval and form as may be specified by the Authority.

CHAPTER III

REGISTRATION OF ASSIGNMENTS OF RECEIVABLES

6. Registration of assignments of receivables transactions

1. The trade receivables financed through a Trade Receivables Discounting System (TReDS) shall be filed with the Central Registry, by the concerned TReDS on behalf of the Factor, within a period of ten days, from the date of such assignment or satisfaction thereof, as the case may be, containing the particulars of:
 - a. assignment of receivables in favour of a Factor in such form and manner as specified in clause (a) sub-rule (1) of rule 3 of the Registration of Assignment of Receivables Rules, 2012.
 - b. satisfaction of any assignment of receivables on full realisation of the receivables in such form and manner as specified in clause (b) of sub-rule (1) of rule (3) of the Registration of Assignment of Receivables Rules, 2012.
2. If the particulars referred in the sub-regulation (1) are not filed within the specified period, the Central Registrar may, on being satisfied on an application made in this

behalf stating the reasons for the delay, allow the said particulars to be filed within such additional time not exceeding ten days as he may specify, upon payment of the fee as prescribed by Government of India in Registration of Assignment of Receivables Rules, 2012.

3. Every Form for registration of any transaction relating to assignment of receivables or satisfaction of receivables on realisation shall be accompanied by the fee, as prescribed by Government of India in Registration of Assignment of Receivables Rules, 2012, as amended from time to time, to be paid to the Central Registrar in the manner as may be specified by the Central Registrar.

CHAPTER IV

MISCELLANEOUS

7. Repeal and Savings

1. On and from the commencement of these regulations, the Registration of Assignment of Receivables (Reserve Bank) Regulations, 2022, and Registration of Factors (Reserve Bank) Regulations, 2022 issued by the Reserve Bank of India shall not apply in an International Financial Service Centre.
2. On and from the commencement of these regulations, the Circular titled '*Guidelines on Factoring and Forfeiting of Receivables*' issued vide dated August 17, 2021, by the Authority, shall stand repealed.
3. Notwithstanding anything contained in sub-regulation (1) and (2), any action taken or purported to have been taken under the Regulations and Circular mentioned in sub-regulation (1) and (2), before the commencement of these regulations shall be deemed to have been done or taken under the corresponding provisions of these regulations.