



IFSCA (Capital Market Intermediaries) Regulations, 2021

Background

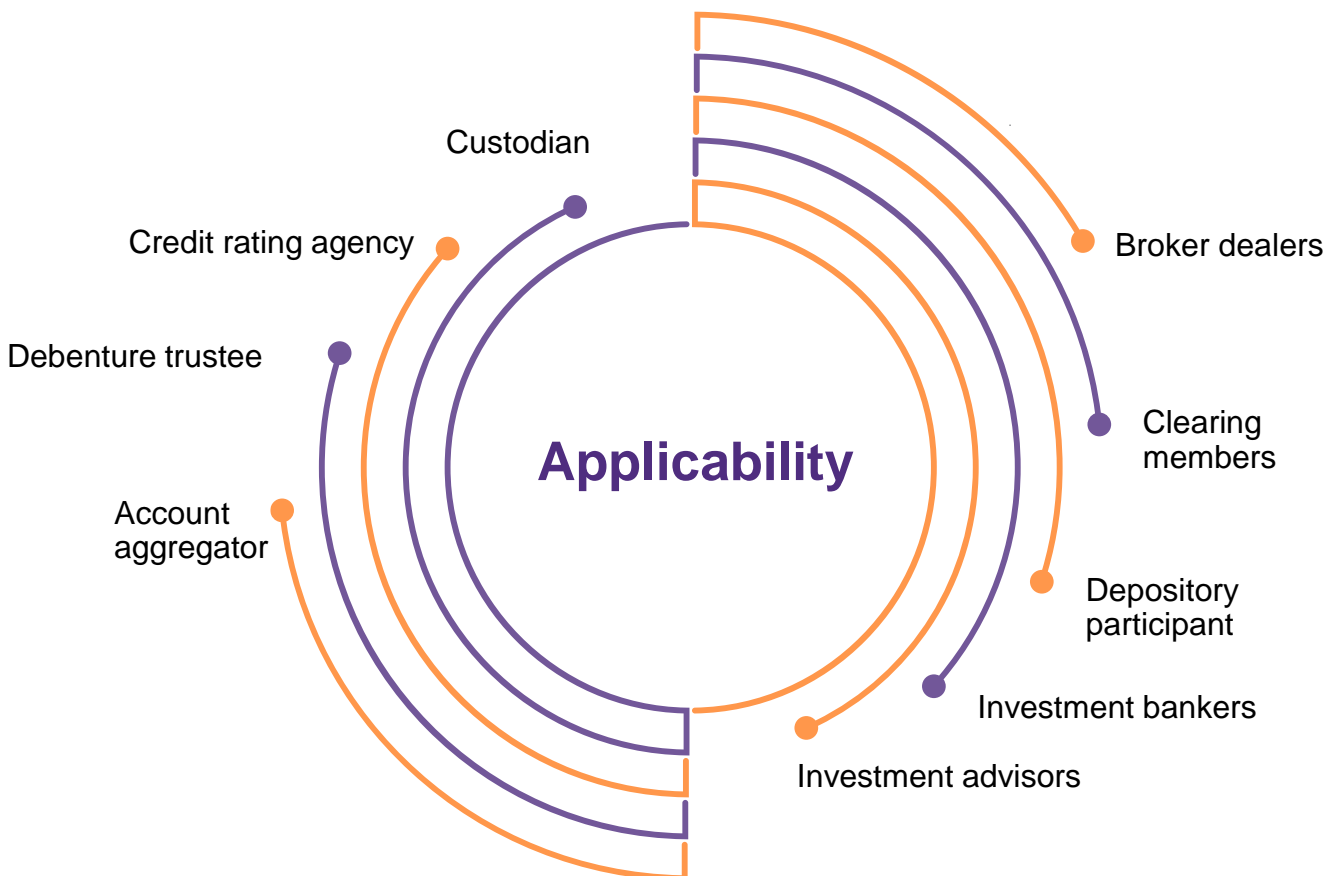
International Financial Services Centres Authority (IFSCA) notified IFSCA (Capital Market Intermediaries) Regulations, 2021 (Regulations) on 18 October 2021.

These Regulations supersede the earlier SEBI (IFSC) guidelines, 2015 and other specific regulations as specified under the Regulations.

The Regulations, *inter-alia*, provide for regulatory requirements with respect to registration, net worth, obligations and responsibilities, etc.

Intermediaries covered

The following categories of intermediaries are required to obtain a certificate of registration from the IFSCA for providing financial services in IFSC



Registration

Application

- To obtain registration as a capital market intermediary (CMI) in an IFSC, an application is to be submitted to IFSCA in prescribed format
- An applicant seeking registration to act as a broker dealer or a clearing member or depository participant shall make an application to IFSCA along with additional information required, through the Recognised Stock Exchange (RSE), clearing corporation or depository, respectively

Legal form of the applicant

- An applicant seeking registration with IFSCA shall be required to be present in an IFSC by establishing a branch or forming a company or limited liability partnership or body corporate or partnership firm or proprietorship firm
- A CMI operating as branch structure in an IFSC shall comply with the following conditions:
 - ✓ The entity shall adequately ring fence the operations of the branch in IFSC
 - ✓ The branch shall maintain minimum net worth for its activities in IFSC, separately and in addition to the minimum net worth applicable for other activities outside IFSC
 - ✓ The entity shall maintain minimum capital as may be specified by the IFSCA
 - ✓ The net-worth requirement may be maintained at parent level

General obligations and responsibilities

Appointment of the compliance officer

- Every capital market intermediary shall appoint a person as a compliance officer

Risk management and internal controls

- A registered capital market intermediary shall have a sound risk management system and adequate internal procedures and controls based on the type of business which it engages, for comprehensively managing risks

Additional specific obligations

- Apart from the general obligations and responsibilities, some specific obligations and responsibilities (such as categories of clients, compliance with specific laws, etc.) have been separately prescribed for specific class of intermediaries





Additional specific obligations

Some additional specific obligations and requirements have been discussed below:

Broker dealers

- Broker dealer has been defined as a person having trading rights in any RSE and includes a trading member
- A broker dealer may have the following categories as clients:
 - ✓ A person resident outside India
 - ✓ A non-resident Indian
 - ✓ A non-individual resident in India who is eligible under Foreign Exchange Management Act (FEMA) to invest funds offshore, to the extent of outward investment permitted
 - ✓ An individual resident in India, who is eligible under FEMA to invest funds offshore, to the extent allowed in the Liberalised Remittance Scheme (LRS) of Reserve Bank of India (RBI)
- Net-worth requirement:
 - ✓ Indian entity (including IFSC) – As specified by RSE
 - ✓ Foreign entity – As specified by RSE but subject to minimum of USD 0.135 million

Clearing member

- A clearing member is defined as a person having clearing and settlement rights in any recognised clearing corporation

- Net-worth requirement –
 - ✓ Indian entity (including IFSC) – As specified by recognised clearing corporation
 - ✓ Foreign entity – As specified by recognised clearing corporation, subject to minimum of USD 1.35 million for clearing member and USD 0.675 million for self clearing member
- A clearing member may have the categories of clients as discussed above for broker dealers

Depository participant

- A depository participant is defined as a participant of a recognised depository
- Net-worth requirement – As specified by the depository
- A depository participant may have the categories as clients as discussed above for broker dealers

Investment banker

- An investment banker is defined as a person who is engaged in the business of issue management either by making arrangements regarding selling, buying or subscribing to securities or acting as manager, consultant, adviser or rendering corporate advisory service in relation to such issue management
- Net-worth requirement
 - ✓ Indian entity (including IFSC) – USD 0.75 million
 - ✓ Foreign entity – USD 1.5 million

- An investment banker may act as an underwriter of an issue in an IFSC subject to prescribed conditions
- An investment banker shall not undertake any activity, except for marketing of the issue or offer, if the investment banker is a promoter or an associate of the issuer of securities or of any person making an offer to sell or purchase securities in terms of any regulations made by the IFSCA

Custodian

- A custodian is defined as a person who carries on or proposes to carry on the business of providing custodial services
- Custodian services include:
 - ✓ Maintaining accounts of such financial products
 - ✓ Collecting the benefits or rights accruing to the client in respect of such financial products
 - ✓ Keeping the client informed of the actions taken or to be taken by the issuer, having a bearing on the benefits or rights accruing to the client
 - ✓ Maintaining and reconciling records of the services
 - ✓ Undertaking activities relating to issuance of depository receipts in an IFSC
- Net-worth requirement:
 - ✓ Indian entity (including IFSC) – USD 7 million
 - ✓ Foreign entity – As specified by the authorities

Investment advisor

- An investment advisor is defined as a person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called

- An investment advisor may have the categories of clients as discussed above for broker dealers
- An investment adviser shall disclose to a prospective client, all material information about itself including its business, disciplinary history, the terms and conditions on which it offers advisory services, affiliations with other intermediaries and such other information so as to enable the client to take an informed decision on whether or not to avail its advisory services and shall act in a fiduciary capacity by disclosing all the conflicts of interest (as and when they arise)
- An investment advisor must maintain an arms length relationship between their activities as investment advisor and other activities
- An investment adviser shall not act on its own account, knowingly sell securities or investment products to or purchase securities or investment products from a client
- An individual investment advisor shall not provide any distribution services
- Net-worth requirement
 - ✓ Indian entity (including IFSC) – USD 0.5 million
 - ✓ Foreign entity – USD 1 million

Credit rating agency

- A credit rating agency is defined as a person which is engaged in the rating of securities or financial products, or such other products as may be introduced by the Authority from time to time
- Net-worth requirement:
 - ✓ Indian entity (Including IFSC) – USD 3 million
 - ✓ Foreign entity – USD 6 million

Debenture trustee

- Debenture trustee is defined as a trustee appointed in respect of any issue of debentures
- A person shall not be appointed as a debenture trustee, in cases where the debenture trustee is an associate of the issuer or is likely to have conflict of interest in any manner other than as remuneration to the debenture trustee
- A debenture trustee is not allowed to relinquish its assignment as a debenture trustee until another debenture trustee has been appointed by the issuer
- Net-worth requirement:
 - ✓ Indian entity (Including IFSC) – USD 1.5 million
 - ✓ Foreign entity – USD 3 million

Account aggregator

- An account aggregator is defined as a person who undertakes the business of providing the service of retrieving or collecting information of their customer pertaining to financial assets and consolidating, organising and presenting such information to the customer or any other person as per the instructions of the customer
- Net-worth requirement:
 - ✓ Indian entity (including IFSC) – USD 0.5 million
 - ✓ Foreign entity – USD 1 million



Cross-border business provisions

- A registered CMI may undertake cross-border business in capital markets in India or a foreign jurisdiction, subject to the following conditions:
 - ✓ Ring fence its IFSC-related capital market activities with its cross-border operations
 - ✓ Shall ensure that true, correct and adequate disclosures (including risks) are made to its clients regarding such businesses

Tax benefits

Direct tax benefits

- 100% income tax exemption for 10 out of 15 years
- Minimum Alternate Tax (MAT) at the rate of 9% of book profits for company/others setup as a unit in IFSC (MAT credit can be availed for 15 years, accordingly zero tax rate can be achieved)

Indirect tax benefits

- No GST on services received by IFSC unit
- No GST on services provided to SEZ, IFSC units or offshore clients
- No stamp duty, STT and commodities transaction tax

How can we help?

- 01** Assist in evaluating the eligibility criteria for setting up an entity in IFSC, in accordance with the prescribed regulations
- 02** Advice on the capital requirements and other conditions prescribed under the regulations
- 03** Advice on the tax implications arising from activities in IFSC
- 04** Assist in incorporation of the entity in IFSC-GIFT City
- 05** Help in obtaining approval from the IFSC authorities and SEZ regulator for operating in IFSC-GIFT City
- 06** Assist in filing income-tax and regulatory compliance and provide advisory services, when required, by the entities in IFSC-GIFT City
- 07** Cater to other consultancy services requirements, such as due-diligence services, internal audit and IT consultancy

Why choose Grant Thornton Bharat?



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