

CONSULTATION PAPER ON PROPOSED

IFSCA (MAINTENANCE OF INSURANCE RECORDS AND SUBMISSION OF REQUISITE INFORMATION FOR INVESTIGATION AND INSPECTION) REGULATIONS, 2022

Objective:

The objective of this consultation paper is to seek comments / views / suggestions from public on the proposed International Financial Services Authority (Maintenance of Insurance Records and Submission of Requisite Information for Investigation and Inspection) Regulations, 2022.

Background:

1. The International Financial Services Centres Authority (IFSCA) is the unified regulator for the development and regulation of financial products, financial services and financial institutions in the International Financial Services Centres (IFSCs) in India.
2. To ensure prudent eco-system which is at par with top international jurisdictions, IFSCA has already issued certain regulations. These regulations aim to specify minimum information that is required to be maintained by the IIO and IIIO, for the purposes of investigation and inspection, so as to be enable the investigating officer to discharge his / her functions satisfactorily, under section 33 of the Insurance Act, 1938.
3. The proposed IFSCA (Maintenance of Insurance Records and Submission of Requisite Information for Investigation and Inspection) Regulations, 2022 *inter alia* provide for :
 - (a) Maintenance of Policy and Claims records
 - (b) Maintenance of data, records, information etc. as per the provisions Insurance Act, 1938;
 - (c) Maintain a record of employees; and
 - (d) Checks and other verifications.
4. The draft regulations are 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 Insurance Dept. at insurance-dept@ifsc.gov.in with copy to Mr. Bhaskar Khadakbhavi at bhaskar.khadakbhavi@ifsc.gov.in and Rishi Kale at rishi.kale@ifsc.gov.in on or before 15th December, 2022, in the attached format. It is further requested to provide comments in MS Word or MS Excel format only.

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY

NOTIFICATION

Gandhinagar, the __/__, 2022

DRAFT - International Financial Services Centres Authority (Maintenance of Insurance Records and Submission of Requisite Information for Investigation and Inspection) Regulations, 2022

F. No. IFSCA/2022-23/GN/REG0xx. – In exercise of the powers conferred by Section 28 read with Sections 12 and 13 of the International Financial Services Centres Authority Act, 2019, and clause (ga), (j) of sub-section (2) of Section 114A read with clause (c) of sub-section (1) of section 14 and sub-section (7) of section 33 of the Insurance Act, 1938, the International Financial Services Centres Authority hereby makes the following regulations namely:-

1. Short title and commencement –

- (1) These regulations may be called the International Financial Services Centres Authority (Maintenance of Insurance Records and Submission of Requisite Information for Investigation and Inspection) Regulations, 2022.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- (3) Unless otherwise mentioned herein, these regulations are applicable to all International Financial Services Centres Insurance Offices (IIOs) and International Financial Service Centre Insurance Intermediary Offices (IIIOs) for the purpose of investigation and inspection by the Authority.

2. Objective:

The objective of these regulations is to specify minimum information that is required to be maintained by the IIO and IIIO, for the purposes of investigation and inspection, under section 33 of the Insurance Act, 1938.

3. Definitions -

- (1) In these regulations, unless the context otherwise requires –
 - (a) ‘Act’ means the International Financial Services Centres Authority Act, 2019 (50 of 2019);

- (b) **‘Authority’ or ‘IFSCA’** means the International Financial Services Centres Authority established under sub-section (1) of Section 4 of the Act;
 - (c) **‘Board’** means the board of directors of an IIO or IIIO, or the Board of the Parent Entity of an IIO or IIIO, as the case may be, in case the IIO or IIIO is unincorporated;
 - (d) **“electronic form”** shall have the same meaning as assigned to it under clause (r) of sub-section 1 of section 2 of the Information Technology Act, 2000;
 - (e) **‘International Financial Service Centre Insurance Office’** shall have the meaning as assigned to it under clause (k) of sub-regulation (1) of regulation 3 of the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021;
 - (f) **‘International Financial Service Centre Insurance Intermediary Office’** shall have the meaning as assigned to it under clause (s) of sub-regulation (1) of regulation 3 of the International Financial Services Centres Authority (Insurance Intermediary) Regulations, 2021;
 - (g) **“investigating officer”** means any person directed by the Authority under section 33 of the Insurance Act, 1938, to investigate or inspect the affairs of any IIOs or IIIOs, as the case may be.
 - (h) **“minimum information”** means information which are required to be maintained by the insurers or intermediaries or insurance intermediaries as specified by these Regulations;
 - (i) **“specified”** means specified by circulars, guidelines or instructions issued by the Authority, from time to time, under these regulations;
 - (j) **“record”** includes documents or any information maintained in physical form, electronic form or in both.
- (2) Words and expressions used and not defined in these regulations but defined in the Act or Acts mentioned in the First Schedule to the Act or any rules, regulations or notifications 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.

4. Maintenance of Policy and Claims records:

- (1) Every IIO shall maintain complete and accurate record of every policy issued and a record of every claim made as per clause (a) and (b) of sub-section (1) of section 14 of the Insurance Act, 1938,
 - (2) Record of such policies and claims shall be maintained in electronic form with necessary security features, irrespective of maintenance in any other form.
 - (3) The IIO shall have Board approved policy for maintenance of the records referred in sub-regulation (1) and (2), which shall *inter alia* include the following -
 - (a) processing and electronic maintenance of records,
 - (b) privacy and security of policyholder and claim data,
 - (c) cybersecurity policy and data protection,
 - (d) security of hardware and software,
 - (e) backups, disaster recovery and business continuity,
 - (f) data Archival; and
 - (g) detailed plan to review the implementation of the maintenance and storage of records to be overseen by the Risk Management Committee of the Board.
 - (4) All Board approved policies, shall be reviewed once in a year within 90 days from the expiry of the financial year.
 - (5) The records including those held in electronic mode, pertaining to all the policies issued and all claims made in India shall be held in data centres located and maintained in India (including IFSC) only.
 - (6) Every IIO shall ensure that the records held are organised in proper manner and are retrievable as and when required.
5. Every IIO and IIO shall maintain and submit, as and when demanded, all records, information, data, documents, books or registers required to be maintained by them under the extant provisions of the Insurance Act, 1938, any other applicable law or the rules, regulations, guidelines, circulars or directions issued thereunder;
 6. Every IIO shall maintain a record of its employees excluding staff or salaried field workers involved in solicitation, comprising of the (i) name; (ii) employee identification number; (iii) date of appointment; (iv) present designation; (v) PAN number; (vi) present salary; perks; (vii) allowances; any other benefits; (viii) taxes and related papers with cross-reference to appointment letter and date of termination, if any, (ix) in respect of any payment made to an employee or other person on account of travelling expenses, record showing full details of the journey performed, purpose of the journey, details of the fares paid and allowances granted.

7. Every IIIO shall maintain details of all past and present employees including (i) the names of the employees, (ii) employee identification number, (iii) date of appointment, (iv) date of termination if any, (v) designation, (vi) qualification; (vii) license/Registration number, (viii) license/registration validity period, (ix) date of certificate of training completion, (x) date of passing the test, (xi) dates of renewal training in case of employees qualified for solicitation of insurance business, (xii) name of the branch or office where posted.
8. Notwithstanding anything contained in these regulations, every manager, managing director or other officer including a service provider, contractor of an IIO and IIIO where services are outsourced by the IIO or IIIO, as the case may be, shall produce all such books of account, registers, other documents and the database in his custody or power and any statement and information relating to the affairs of the insurer or intermediary or insurance intermediary, as the case may be, including for investigation and inspection within the stipulated time.
9. **Checks and other verifications:** The information, data and documents maintained by the IIO and IIIO shall be reconciled with the audited financials, wherever relevant, and as per the requirements specified under other applicable laws and regulations. The records may be maintained either in physical form or electronic form and access shall be given to the persons authorised by the Authority.
10. Every IIO and IIIO shall maintain the records for a minimum period of seven years, as provided under clause (8) of rule 39 of the Insurance Rules, 1939 or as per the extant legal requirements, if any, applicable, whichever is later:
Provided that such period being counted from the date -
 - a. of last transaction on the respective records or from the date of expiry of the policy whichever is later;
 - b. on which the claim is settled.
11. **Power to specify procedures etc.:** For the purpose of implementation, facilitation of these regulations by IIOs and IIIOs and matters incidental thereto, the Authority may specify norms, procedures, processes and manners for compliance by IIOs and IIIOs.
12. **Power to remove difficulties and relax strict enforcement of the regulations:**
 - (1) In order to remove any difficulty in the application or interpretations of the provisions of these regulations, the Authority may issue clarifications through guidance notes or circulars.
 - (2) On an application, received along with the specified non-refundable processing fees, the Authority, may for the reasons to be recorded in writing, relax the strict enforcement of any of the provisions of these regulations.

13. Repeals and saving:

- (1) On and from the commencement of these regulations, following regulations and guidelines shall cease to apply in the International Financial Services Centre –
 - (a) the Insurance Regulatory and Development Authority of India (Maintenance of Insurance Records) Regulations, 2015; and
 - (b) the Insurance Regulatory and Development Authority of India (Minimum Information Required for Investigation and Inspection) Regulations, 2020.
- (2) An IIO and IIIO operating in the IFSC prior to the commencement of these regulations, shall comply with additional requirements as stipulated in these regulations, within a period of six months from the date of commencement of these regulations or within such extended time as may be permitted by the Authority.

INJETI SRINIVAS, Chairperson
[ADVT. xxx/x/Exty./xxx/2022]

Format for providing comments / suggestions on

Proposed International Financial Services Centres Authority (Maintenance of Insurance Records and Submission of Requisite Information for Investigation and Inspection) Regulations, 2022

| Name, Designation of the person | | | | |
|--|-----------------|-------------------------------|---|------------------|
| Contact No. | | | | |
| Name of Organization | | | | |
| Page No. of Draft Regu. | Reg. No. | Sub-Regu No. /Para No. | Comments / Suggestions / Suggested modifications | Rationale |
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