

Public Comments

The consultation paper seeking comments/views/suggestions from public on the draft IFSCA (Payment Services) Regulations, 202X was issued by IFSCA on October 10, 2023.

The following comments were received:

Sr. no.	Page No. of Draft Regulation	Reg. No.	Comments/Suggestions/ Suggested modifications	Rationale	IFSCA's response
1	4	2 (1)(a)	<p>Suggestion - It will be helpful in case the account issuance service is defined with examples including wallets, IBANs, Virtual Accounts, or stored value cards. We understand that it is categorically mentioned as accounts suggesting VAs / IBANs however stored value cards or wallets can help FinTech expand offerings.</p>		<p>The definition of the term “payment account” has been updated in the final regulations. “payment account” means an account or facility (either in physical or electronic form) held in the name of one or more Payment Service Users and is used initiation of a payment order or execution of payment transactions or both.”</p>
2	5	2 (1)(j)	<p>Clarification required- The current definition of cross-border money transfer service only includes transfers to or receipts from an IFSC person. We would recommend that the regulations allow transactions & onboarding for non-IFSCA users as well. This seems to be allowed for other services, except for cross-border</p>	<p>Other regulations worldwide are formed with stricter guidelines to protect the interests of domestic persons and also allow the onboarding and servicing of other persons in other jurisdictions to be served. It is necessary to do so as well for the PSP to fully utilize the authorization and conduct operations optimally.</p>	<p>The definition has been modified to address the issue raised. The new definition is as follows – “cross-border money transfer service” means either of the following services: 1) any service of accepting money from a person in IFSC or a person outside IFSC, whether as principal or agent, for the purpose of transmitting, or arranging for the</p>

			transfers where the definition explicitly denies it.	For e.g. Currently, a licensed EMI (like CurrencyCloud) in the UK is able to provide account issuance and cross border transfer service to Indian merchants however this definition would stop a PSP from doing the same for the same merchants This change would be essential for the PSPs to be at par with other competition globally.	transmission of, the money to any person outside IFSC; 2) any service of receiving any money from a person outside IFSC or arranging for the receipt of any money from a person outside IFSC whether as principal or agent, for the purpose of transmitting or arranging for the transmission of the money to any person in IFSC or any person outside IFSC.
3	5	2 (1) (k) (i)	A plain reading of the digital payment token gives an understanding that stable coins or CBDCs like USDC and e-rupee are allowed, however, cryptocurrencies like Bitcoins, etc are not allowed.	Stablecoins like USDCs or CBDCs are key to instant settlements and low-cost instant liquidity solutions. However non-pegged tokens like bitcoin and other crypto pose issues in managing, handling, and risk for processing client money.	Cryptocurrencies and Stablecoins, referred to as Virtual Digital Asset in the final regulations, are not allowed to be placed in the payment accounts issued by PSPs. CBDCs are distinct from stablecoins. Further clarifications are to be provided in the FAQs issued post notification of the regulations.
4	5	2 (1) (l)	A clarification of the definition of deposit vs E-money issuance would be helpful. For e.g., e-money issued for more than 12 months can be viewed as a deposit.		E-money issued for more than 12 months cannot be viewed as a deposit. As per Indian law only Banks and a certain category of Non-Banking Financial Companies are allowed to accept deposits. PSPs do not fall in either of the two categories. E-money is the representation of money placed with them by their customers and held by the PSPs in trust. The PSP has no ownership of the said money.
5	6	2 (1) (r)	Merchant Acquisition Services The definition seems to restrict the	The definition switches from "Payment	The term "merchant" has been introduced and defined.

			<p>marketplace's payment mechanism whereby they split money received into commission, VAT/GST, or TDS payments, and merchant payments.</p> <p>India PA regulation allows PAs for such payments. Would be helpful if a definition of the "merchant" is included as well.</p>	<p>Service User" to "Merchant" and the definition of a "Merchant" is not defined in the draft.</p> <p>The Definition seems to only allow settlement to only merchant and not settlement on "instructions of the merchant" (as allowed in domestic PA & PA-CB regulations)</p> <p>For e.g. The contract with a merchant might ask the PSP to settle a portion of the receipt for VAT payments.</p>	<p>"merchant" shall include all persons, in or outside IFSC, who accept payments for goods and services provided by them, through electronic/online payment modes</p> <p>The definition of "merchant acquisition service" clearly mentions 'under a contract between the Payment Service Provider and the merchant'. This could cover settlement on instructions of the merchant.</p>
6	20	Schedule 1 Part C 3 (b) (i)	<p>For e-money account issuance services, we understand that e-money in 'any' payment account should not exceed \$3million. Is this limit on each payment account level or at the PSP level as a whole?</p> <p>Further, the e-money issuance service suggests the sum total of "all" Emoney issued at the PSP level. Is this at the PSP level as whole.</p>		The limit is on PSP level as whole, not on account level.
7	4, 5	2 (1) (a) (l) (m)	<u>Issuing the authorization for distribution of prepaid travel card by the IFSCA</u>	<ul style="list-style-type: none"> Under the current regulations in India, RBI has allowed non-bank entities with AD Category - II license to issue prepaid 	Travel card is allowed to be issued to resident Indians and overseas customers. In case of resident Indians, compliance with FEMA would have to be ensured by the PSP.

			<ul style="list-style-type: none"> • Issuance of travel card under account issuance services and e-money services from IFSC for resident Indian customers as well as overseas customers • Such travel cards to be offered with multicurrency features • Issuance of such travel cards to Indian residents under LRS route for a period exceeding 180 days 	<p>multi-currency travel card through settlement of liabilities of network (Visa and Mastercard) via an AD Category - I bank</p> <ul style="list-style-type: none"> • Such travel cards are issued to Indian residents under LRS route with limit of USD 2,50,000 on prepayment basis. • In order to bring IFSC as an offshore jurisdiction from FEMA perspective at par with other foreign jurisdictions, the LRS scheme needs to be liberalized for IFSC to see maximum use cases of payment service provider considering the growth of outward remittance to other foreign jurisdictions. • By allowing LRS route for account issuance and e-money services at IFSC, we can maintain funds at IFSC level, which otherwise would have remitted out to other foreign jurisdictions. This will also enable better tracking of outward remittances • Under the Para 10 of RBI Master Direction - Miscellaneous (FED Master Direction No. 19/2015-16) for remittance under miscellaneous activities which 	
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				<p>are setup outside India, allows to approach RBI for a special approval for using AD Category - I bank to settle funds to them in foreign currency through remittance as a form factor.</p> <p>There is precedence of same wherein companies such as Flywire are allowed to receive funds for their Indian clients through Indian AD Category - I (Deutsche Bank) for payments to universities through aggregating funds centrally in US accounts for further payment to University.</p> <p>The current limit is USD 5,000 for travel purposes and USD 10,000 for education payments.</p> <p>Similarly, once an entity which is issued a PSP license is considered as offshore entity by RBI, therefore it can be allowed by RBI for settlement of funds through the above precedence wherein instrument of foreign exchange is changing from remittance to card for settlement of the liabilities for cards issued to Indian Residents.</p>	
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8	5	2 (1) (j)	<p><u>Money Transfer Operator License</u></p> <ul style="list-style-type: none"> • Issuance of overseas Money Transfer Operator (MTO) authorization under Cross Border Money Transfer services from IFSC as Payment Service Provider <p>This authorization as MTO needs to be acceptable by the RBI as an overseas principal under the RBI Master Direction – Money Transfer Service Scheme (MTSS)</p>	<ul style="list-style-type: none"> • Issuance of last MTO license by RBI to an entity based out of UK in 2017, post which one of the company has been allowed for same, therefore use case of Ebixcash for an MTO under cross border money transfer scheme • Ebix Payment Services Pvt. Ltd. today manages 78% of the overall inward remittance in India through its network of locations. Ebix Payment Services Pvt. Ltd. facilitates these transfers through its principal partners (Money Transfer Operators - MTOs) Western Union, MoneyGram, Ria Money, Transfast, Instant Cash and Xpress Money. EbixCash has a majority share of the business from Western Union, which is the largest MTO. • Money Transfer Operator's licensed by RBI under MTSS scheme facilitate cross border payment through following format: 1) Cash Payout at Sending Country -> Cash Payout in India through Agent Network 	<p>The idea suggested in the comments is not currently envisaged as a under cross border money transfer service. IFSCA shall study the proposal in detail and , if so warranted, issue necessary clarifications in this regard.</p>
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			<p>2) Cash Payout at Sending Country -> Bank Transfer in India</p> <p>3) Electronic Payment Method (Bank transfer/ Cards / Wallets) in Send Country -> Cash Payout through Indian Agent Network</p> <p>4) Electronic Payment Method (Bank Transfer / Cards / Wallets) in Send Country -> Bank Transfer / Wallet Credit in India</p> <p>For cash payouts through agent network, MTO's use Indian Agent's route to appoint sub- agents which are geographically spreading across India. The Indian Agent complies which regulatory reporting, compliance of each transaction executed through this channel including audit, KYC etc.</p> <p>As Ebixcash has the largest agent network with rich experience in managing this network, we can offer value added benefits through the MTO authorization by</p>	
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				developing an efficient and fast payment ecosystem.	
9	6	2 (1) (n)	<p><u>Escrow Account Services</u></p> <p>Allowing interest bearing capacity on the escrow account opened by payment services provider in IFSCA</p>	<p>As per the IFSCA Banking Handbook – Conduct of Business Directions, Current Account” means a form of non-interest-bearing demand deposit.</p> <p>However, as per the regulation of RBI for PPI, the escrow account which are 48 weeks old are allowed to pay interest to the issuing entity which is also a form of current account.</p> <p>Therefore, we propose to receive explicit mention of interest-bearing capacity for the accounts opened by PSP entities in IFSCA for the balance held in those accounts as this would promote escrow services for non-bank financial service providers to offer these services to our clients.</p>	<p>Accepted</p> <p>The RBI guidelines for PPIs allows non-bank PPIs to enter into agreement with the bank holding their escrow account to pay interest on the “core portion” of the escrow account (computed according to a formula provided) . A similar mechanism will be put in place after a PSP offering e-money services has operated for a year.</p>
10	5	2 (1) (j)	Are there any limitations related to currency control, limits, etc with respect to cross border payments (not remittance) being processed for trade payments or will this have restrictions as per the current RBI FEMA regulations?	If the restrictions remain the same (limitation on the volume, heavy paper work, etc.), then potentially the idea around creating a new cross-border e-money business (EMI) won't look so attractive for the market	Cross border payments involving persons resident in India shall be covered by FEMA .

11	10	11 (3)	<p>There is no security deposit required for a Regular Payment Service Provider. Is this by design or a gap in the regulation?</p>	<p>Most PSPs will start off as a Regular PSP before the volumes they process justify them to be classed as a Significant PSP which may not necessarily happen in the first year of their operation.</p> <p>The authority will have leverage against the Regular PSP to perform its obligation to its customer if there is some form of deposit being maintained by the Regular PSP.</p>	<p>Provision for IFSCA to require placement of security deposit has been applied to both Regular Payment Service Provider (RPSP) and Significant Payment Service Provider (SPSP) in the updated regulations. See FAQ for further details.</p>
12	24	Schedule II Section B, #14	<p>This is regarding the requirement for the parent entity to have audited financials for 3 years. Most global parent fintech firms will not be able to meet this requirement as they may have been established in the last 3 years but may not yet have their 3rd annual accounts due.</p> <p>A more prudent approach would be to allow flexibility around the 3 years audited accounts requirement with a “where available” qualifier.</p>	<p>A firm which may have been operational for 2 or 3 years may not be able to furnish the 3 years audited accounts but more importantly these firms will have live operations with customers and generating revenue in other regulated jurisdictions to provide the required assurance.</p>	<p>The application form (Schedule II) in the draft regulations has been removed in the updated regulations and the same will be issued in the form of a circular post notification of the regulation. Production of three years annual accounts is being sought as one of the inputs into the decision to grant authorisation and not as a disqualification. The idea is to ensure that the applicant has “adequate experience” and “financial soundness” as required under Regulation 8.</p>
13	47	Schedule VI, Regulation 7 (1)	<p>The requirement to have a net worth of \$2m on the date of commencement of operations for a Significant PSP is not practical as this will be a new entity which is part of the group of a global entity and is set up as the local Indian entity based in GIFT city for authorisation.</p>	<p>We understand the requirement for a sufficient net worth to avoid “fly by night” operators coming in with very thin capitalisation and no experience.</p> <p>The suggestion to include parent companies and other financially</p>	<p>Not Accepted.</p> <p>While the financial strength of the parent would be considered while deciding on authorisation of its subsidiary in IFSC as a PSP, the net worth requirements for a RPSP and a SPSP has to be satisfied at the entity level on an ongoing basis as, by law, the parent and subsidiary are different entities.</p>

			<p>A better way to address this issue is to allow the definition of net worth to include both parent companies and any other financially regulated companies in the group structure, and not just the locally licensed entity in India.</p>	<p>regulated companies in the group structure ensures the group as a whole is financially mature, experienced, stable and well capitalised.</p>	
14	48	<p>Schedule VII (2), (3) and (4)</p>	<p>The safeguarding requirements only seem to apply for a Significant PSP but not for a Regular PSP. Is this by design or an oversight?</p> <p>Regular PSPs will also handle customer funds and hence are inherently as much risky (if not more) when compared to Significant PSP in terms of becoming insolvent and not able to refund client money</p>	<p>Safeguarding requirements should be made mandatory for a Regular PSP as well especially so as the entry barrier for a Regular PSP is much lower in terms of capital requirements, etc.</p>	<p>Accepted.</p> <p>Safeguarding requirements have been applied for RPSP as well.</p>

The above comments were considered suitably and the revised draft of the IFSCA (Payment Services) Regulations, 202X was placed before the Authority in its meeting held on December 29, 2023.