



## **CONSULTATION PAPER ON PROPOSED INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (AIRCRAFT LEASING) REGULATIONS FOR PUBLIC COMMENTS**

### **Objective**

The objective of this consultation paper is to seek comments/views from the public on the proposed regulations for Aircraft Leasing industry in International Financial Services Centre, India.

### **Background**

The Government of India in the Union budget 2019-20 announced development of Aircraft Leasing activities in International Financial Services Centre. In the budget speech, Hon'ble Finance Minister stated, "time is ripe for India to enter into aircraft financing and leasing activities from India shores", this is critical for "development of self-reliant aviation industry" and creating, "aspirational jobs in aviation finance, besides leveraging the business opportunities available in India's Financial Special Economic Zone namely International Financial Services Centre (IFSC)".

2. On October 16, 2020, Government of India, on the recommendation of International Finance Services Centres Authority (IFSCA), had notified 'Aircraft lease which shall include operating and financial lease and any hybrid of operating and financial lease of aircraft or helicopter and engines of aircraft or helicopter or any part thereof' as a financial product under International Financial Services Centres Authority Act, 2019; paving the way for setting up the Aircraft Leasing business in IFSC.

3. Considering, Aircraft Leasing is a relatively new industry in India and Aircraft Leasing related regulations are different across various financial centres, IFSCA has drafted proposed regulations for Aircraft Leasing and in order to get inputs from the public at large is soliciting public comments on the draft regulations.



## DRAFT AIRCRAFT LEASING REGULATIONS FOR PUBLIC COMMENTS

1. In the light of the above background, IFSCA proposes to frame International Financial Services Centres Authority (Aircraft Leasing) Regulations, draft of which is enclosed at **Annexure - 1** of this document. Public comments are invited on the draft regulations. Comments may be forwarded by email to Mr. Ashutosh Sharma, General Manager, International Financial Services Centres Authority on the email at ([sharma.ashutosh@ifsc.gov.in](mailto:sharma.ashutosh@ifsc.gov.in)) by January 11, 2021.
2. Comments should be given in the following format:

Name of entity/person/intermediary			
S. No.	Draft regulation / sub regulation along with no. of the draft regulation	Proposed / Suggested Changes	Rationale

**Issued on: December 16, 2020**



## Annexure 1

### DRAFT – INDICATIVE REGULATIONS

#### INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (AIRCRAFT LEASING) REGULATIONS

In exercise of the powers conferred by sub-section (1) of Section 28 read with sub-section (1) of Section 12 and sub-section (1) of Section 13 of the International Financial Services Centres Authority Act, 2019, the International Financial Services Centres Authority hereby makes the following regulations to provide a framework for leasing of aircraft or helicopter or aircraft or helicopter engines or any part thereof and for matters connected therewith or incidental thereto

#### CHAPTER I PRELIMINARY

##### **Short Title and commencement.**

1. (1) These regulations may be called the International Financial Services Centres Authority (Aircraft Leasing) Regulations.

(2) They shall come into force from the date of their publication in the Official Gazette.

##### **Definitions.**

2. (1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them below, and their cognate expressions shall be construed accordingly: -

- a) "Act" means the International Financial Services Centres Authority Act, 2019 (50 of 2019);



- b) "Aircraft Lease" means operating and financial lease and any hybrid of operating or financial lease of aircraft or helicopter and engines of aircraft or helicopter or any parts thereof
- c) "Authority" means the International Financial Services Centres Authority established under sub-section (1) of section 4 of the Act;
- d) "INR" means the Indian currency called the Indian Rupee;
- e) "International Financial Services Centre" shall have the same meaning as assigned to it under clause (g) of sub-section (1) of Section 3 of the Act;
- f) "Lessee" means the party having the right to use the aircraft or helicopter and engines of aircraft or helicopter or any other part thereof under an Aircraft Lease;
- g) "Lessor" means the party furnishing the aircraft or helicopter and engines of aircraft or helicopter or any other part thereof under an Aircraft Lease;
- h) "USD" means United States Dollar.

(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 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 LESSOR

### **Registration of Lessor.**

3. (1) No entity shall act as a Lessor unless it has obtained a certificate of registration from the Authority under these regulations.

(2) Any eligible entity, desirous of setting up or registering as a Lessor shall submit an application in the form and manner as may be specified by the Authority.

(3) Every application under sub-regulation (2) shall contain such particulars and shall be accompanied by such documents and fee as may be specified by the Authority.



**Eligibility criteria.**

4. (1) An applicant entity desirous of setting up or registering a unit in IFSC as a Lessor shall meet the following eligibility criteria:

- a) The applicant entity and thereafter any entity for the time being controlling the unit shall be located in a Financial Action Task Force compliant jurisdiction;
- b) A minimum capital of USD 200,000 or its equivalent in freely convertible foreign currency, is to be maintained at all times by the applicant at the IFSC unit;

**Grant of registration.**

5. (1) If the Authority is satisfied, after making enquiry as may be necessary in this behalf and after obtaining further information as it may require, that the eligibility criteria is met by the applicant entity, it may grant registration to such applicant to operate as a Lessor in IFSC, subject to such conditions as may be specified.

(2) The Authority shall not reject an application without giving due opportunity to be heard to the applicant, and the reasons for such rejection shall be communicated to the applicant entity in writing.

CHAPTER III  
PRUDENTIAL REQUIREMENTS

**Additional capital requirement.**

6. (1) In addition to the minimum initial capital specific in Regulation 4, a Lessor shall, at all times, be required to maintain additional capital based on the size and scale of its operations as specified in sub-regulation (2).

(2) For the purpose of determining the additional capital, the Lessor shall, at all times, maintain a minimum total capital (initial and additional), based on the value of its assets, determined at the start of the relevant financial year or in the case of first year of operations, within 30 days of incorporation of the entity, as per following scales:



<b>Total level of assets</b>	<b>Minimum level of total capital</b>
Upto 5 million USD	200,000 USD
Over 5 million and upto 15 million USD	600,000 USD
Over 15 million and upto 25 million USD	1,500,000 USD
Over 25 million and upto 40 million USD	2,500,000 USD
Over 40 million USD	4,000,000 USD

For the purpose of above, the term 'assets' shall include all the assets of the IFSC unit, as may be provided in the financial statements or on the basis of self-declaration.

#### CHAPTER IV FUNCTIONING OF ENTITIES ENGAGED IN AIRCRAFT LEASING

##### **Functioning of Lessor.**

7. (1) A Lessor may also include a bank, a non-banking finance company, a leasing finance company or an operating lessor and other entities as specified by the Authority

(2) A Lessor may conduct its business in an International Financial Services Centre in any mode as permitted by the Authority, including through a subsidiary or a special purpose vehicle or LLP.

##### **Permissible services and activities.**

8. A Lessor at IFSC shall undertake the activities with respect to Aircraft Leasing, including, but not limited to the following:

- (i) aircraft leasing which shall include operating or financial lease or hybrid of operating and financial lease, of aircraft or helicopter and engines of aircraft or helicopter or any other part thereof;
- (ii) sale and lease back, novation, transfer, assignment, securitization and such related transactions in relation to aircraft, helicopters, engines or any other part thereof;



(iii) any other financing, leasing and such related transactions in relation to aircrafts, helicopters, engines or any other part thereof.

**Currency for conducting business.**

9. A Lessor shall deal in freely convertible foreign currency only;

*Provided* that it may defray its administrative expenses in INR by maintaining an INR account as may be specified by the Authority.

CHAPTER IV  
OPERATIONAL REQUIREMENTS

**Reporting requirements.**

10. The Lessor shall be required to furnish information relating to its operations to the Authority in such manner and form and at such intervals as may be specified by the Authority.

**Maintenance of books of accounts, records and documents.**

11. The Lessor shall maintain its books of accounts, records and documents, in such foreign currency as may be declared by the applicant entity at the time of making an application under these regulations.

**Compliance with other requirements.**

12. In respect of management of an Aircraft Lease, if the regulatory compliance as per the lease agreement is on the Lessor, the Lessor has to ensure compliance with the applicable regulatory obligations, standards, policy and guidelines as issued by the aviation authority or any other relevant regulator(s) and other applicable laws relating to its operations in the IFSC.



## CHAPTER V MISCELLANEOUS

### **Power to specify procedures and issue clarifications.**

13. For the purpose of implementation of these regulations and matters incidental thereto, or in order to facilitate and regulate Aircraft Leasing activity in the International Financial Services Centre, the Authority may specify norms, procedures, processes, manners or provide relaxations, by way of guidelines or circulars which shall be deemed to form part of this regulation.

### **Action in case of default.**

14. (1) If a Lessor fails to fulfil the conditions subject to which the registration under Regulation 5 has been granted by the Authority, the Authority may withdraw the registration of the lessor, after giving an opportunity of thirty days to the entity to make its submissions, if any.

(2) Without prejudice to the above, the Authority may take any other action as it deems fit under the Act.