



CONSULTATION PAPER ON PROPOSED IFSCA (MARKET INFRASTRUCTURE INSTITUTIONS) REGULATIONS, 2021

Objective

1. The objective of this consultation paper is to seek comments / views from public on the proposed regulations for market infrastructure institutions (stock exchanges, clearing corporations and depositories) in International Financial Services Centres (IFSC) in India.

Background

2. The market infrastructure institutions (MII) are of critical importance in the growth and stability of any financial system and hence, the need was felt to review the existing regulatory framework for MIIs in IFSC.
3. Currently, the MIIs in IFSC are regulated by a combination of SEBI (IFSC) Guidelines, 2015, Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018, Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 and circulars made thereunder.
4. Considering the importance of MIIs in the IFSC ecosystem and with the objective of creating a simplified regulatory framework so as to promote ease of doing business in IFSC, the proposed unified regulations for MIIs in IFSC have been formulated.

Proposed Regulatory Framework

5. The salient features of the proposed IFSCA (MII) Regulations, 2021 are as under:

A. Structure

1. A stock exchange in IFSC shall be allowed to be set up as a subsidiary of an existing stock exchange, whether of Indian or any foreign jurisdiction¹, on its own or through a consortium.
2. A clearing corporation in IFSC shall be allowed to be set up as a subsidiary of an existing stock exchange or clearing corporation, whether of Indian or any foreign

¹ As defined in the draft IFSCA (MII) Regulations, 2021

jurisdiction, on its own or through a consortium.

3. A depository in IFSC shall be permitted as a branch of an Indian depository. Further, a foreign or an Indian depository may incorporate a subsidiary for setting up a depository in IFSC, on its own or through a consortium.

B. Shareholding

1. The shareholding of MIIs operating as a subsidiary in IFSC shall be in the following manner:

Institution	Nature of Shareholder	permissible holding of paid up share capital (%)
Stock exchange	Subsidiary of stock exchange on its own or through a consortium.	At least 51
	Any other entity (except clearing corporation)	Upto 25%
Clearing Corporations	Subsidiary of stock exchange or clearing corporation on its own or through a consortium.	At least 51
	Any other entity	Upto 25%
Depository	Subsidiary of depository on its own or through a consortium	At least 51
	Any other entity	Upto 25%

2. The parent stock exchange, clearing corporation or depository, as the case maybe, setting up the MII in IFSC shall be the largest shareholder with minimum 26% shareholding of the MII.
3. The acquisition of shareholding by any person of 10 per cent or more in MIIs in IFSC shall be with the prior approval of the Authority.
4. The MIIs in IFSC shall be required to put in place an adequate monitoring mechanism to ensure compliance with the shareholding requirements and shall be required to submit their shareholding pattern to the Authority on a quarterly basis.

C. Minimum Net Worth Requirements

1. The minimum net worth requirements for MIIs in IFSC shall be as mentioned in the below table:

Institution	Net worth (INR)
Stock Exchange	25 crores
Clearing Corporation	50 crores
Depository	25 crores

D. Governance

1. Under the existing framework, the market infrastructure institutions have to adopt the broader principles of governance prescribed by Committee on Payments and Market Infrastructures (CPMI) and International Organization of Securities Commissions (IOSCO) in the Principles for Financial Market Infrastructures (PFMIs).
2. Considering that MIIs are critical institutions, for ensuring the financial stability, it has been decided to prescribe additional norms for governance of MIIs operating as a subsidiary in IFSC, including the following:
 - a. Appointment of public interest directors on their governing board;
 - b. The chairperson shall be elected by the governing board from amongst the public interest directors;
 - c. The number of public interest directors shall not be less than the number of shareholder directors;
 - d. The appointment of directors of a market infrastructure institution shall be subject to the prior approval of the Authority;
 - e. The roles and responsibilities of the governing board of a recognised market infrastructure institution should be clearly specified and the procedures for its functioning, including procedures to identify, address, and manage conflicts of interest should be documented;
 - f. The governing board of a recognised market infrastructure institution shall review the overall performance and the performance of its individual directors regularly;
 - g. A recognised market infrastructure institution shall constitute such committees as may be prescribed by the Authority from time to time; and
 - h. A recognised market infrastructure institution shall adopt an appropriate policy to segregate its regulatory departments from other departments.

E. General Obligations for Stock Exchanges and Clearing Corporations: The stock exchanges and clearing corporations in IFSC shall be required to comply with the requirements in respect of:

- a) Clearing and Settlement of Trades
- b) Admission of Securities
- c) Investor Education and Protection Fund by stock exchange
- d) Settlement Guarantee Fund by Clearing Corporation
- e) Risk Management
- f) Halting Trading by stock exchange
- g) Co-Location by stock exchange
- h) Business Continuity Plan and Disaster Recovery
- i) Utilization of profits and investments
- j) Equal, fair and transparent access
- k) Maintenance of books of accounts and records
- l) Bye-Laws and Rules
- m) Settlement and Netting
- n) Obligations of clearing corporations in commodity derivatives
- o) Right of clearing corporation to recover dues.

F. General Obligations for Depositories: The depositories in IFSC shall be required to comply with the requirements in respect of:

- a) Security eligible for dematerialisation
- b) Agreement between depository and participant
- c) Agreement between depository and issuer
- d) Systems and procedures
- e) Connectivity
- f) Mechanism for investor protection
- g) Withdrawal by participant
- h) Risk management
- i) Business Continuity Plan and Disaster Recovery
- j) Maintenance of records
- k) Co-operation
- l) Pledge
- m) Equal, fair and transparent access
- n) Audit report by issuers

Public Comments

6. In view of the above, comments and suggestions from public are invited on the proposed IFSCA (Market Infrastructure Institutions) Regulations, 2021 contained in **Annexure-I** to this paper. Comments may be sent by email to Mr. Arjun Prasad, Deputy General Manager, IFSCA at arjun.pd@ifsc.gov.in latest by February 19, 2021.
7. The comments should be in the following format:

Name and occupation of the person:			
Sr. No.	Number of the draft regulation	Proposed changes	Rationale

Issued on: January 29, 2021

**INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (MARKET
INFRASTRUCTURE INSTITUTIONS) REGULATIONS, 2021**

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; Sections 4, 8A and 31 read with Section 29B of the Securities Contracts (Regulation) Act, 1956; and Section 25 read with Section 23G of the Depositories Act, 1996, the International Financial Services Centres Authority hereby makes the following regulations, namely: -

CHAPTER I

PRELIMINARY

Short title and commencement

1. (1) These regulations may be called the International Financial Services Centres Authority (Market Infrastructure Institutions) Regulations, 2021.
- (2) They shall come into force on the thirtieth day of its publication in the Official Gazette.

Definitions

2. 1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings as assigned below, and their cognate expressions shall be construed accordingly,—
 - (a) "associate" in relation to a person shall include another person:
 - i. who, directly or indirectly, by himself, or in combination with other persons, exercises control over the first person;
 - ii. who holds control of at least twenty percent of the total voting power of the first person;
 - iii. who is a holding company or a subsidiary company of the first person;
 - iv. who is a relative of the first person;
 - v. who is a member of a Hindu Undivided Family wherein the first person is also a member;
 - vi. such other cases where the Authority is of the view that a person shall be considered as an associate based on the facts and factors including the extent of control, independence, conflict of interest;
 - (b) "Authority" means the International Financial Services Centres Authority established under sub-section (1) of section 4 of the IFSCA Act;

- (c) "clearing corporation" means an entity that is established to undertake the activity of clearing and settlement of trades in securities or other instruments or products that are dealt with or traded on a recognised stock exchange and includes a clearing house;
- (d) "clearing member" means a person having clearing rights in any recognised clearing corporation;
- (e) "Depositories Act" means the Depositories Act, 1996 (22 of 1996);
- (f) "foreign jurisdiction" means a country, other than India, whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A signatories) or a signatory to bilateral Memorandum of Understanding with the Authority, and which is not identified in the public statement of Financial Action Task Force as:
 - i. a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
 - ii. a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies;
- (g) "governing board" means the board of directors of a recognised stock exchange, a recognised clearing corporation or a recognised depository;
- (h) "IFSCA Act" means the International Financial Services Centres Authority Act, 2019 (50 of 2019);
- (i) "International Financial Services Centre" or "IFSC" shall have the same meaning as assigned to it under clause (g) of sub-section (1) of Section 3 of the IFSCA Act;
- (j) "net worth" means the aggregate value of paid up equity share capital plus share premium account and free reserves (excluding statutory funds, benefit funds and reserves created out of revaluation) reduced by the investments in businesses, whether related or unrelated, aggregate value of accumulated losses and deferred expenditure not written off, including miscellaneous expenses not written off;
- (k) "netting" means the determination by clearing corporation of net payment or delivery obligations of the clearing members of a clearing corporation by setting off or adjustment of the inter-se obligations or claims arising out of buying and selling of securities;
- (l) "novation" means the act of one or more recognised clearing corporations interposing between the parties of every trade, so as to be a legal counterparty;
- (m) "recognised clearing corporation" means a clearing corporation in IFSC recognised by the Authority;
- (n) "recognised depository" means a depository in IFSC recognised by the Authority;
- (o) "recognised market infrastructure institution" means a recognised stock exchange, a recognised

- clearing corporation or a recognised depository;
- (p) "recognised stock exchange" means a stock exchange in IFSC recognised by the Authority;
 - (q) "rules" means the Securities Contracts (Regulations) Rules, 1957;
 - (r) "SCRA" means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
 - (s) "SEBI" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;
 - (t) "trading member" means a person having trading rights in a recognised stock exchange.

(2) Words and expressions used and not defined in these regulations but defined in the SCRA, the IFSCA Act, the Securities and Exchange Board of India Act, 1992, the Depositories Act, the Companies Act, 2013, or any rules or regulations made thereunder shall have the same meanings respectively assigned to them in those Acts, rules or regulations made thereunder or any statutory modification or re-enactment thereto, as the case may be.

CHAPTER II

RECOGNITION

Application for seeking recognition

3. No person shall conduct, organise or assist in organising any stock exchange, clearing corporation or depository in IFSC unless he has obtained recognition from the Authority in accordance with these regulations.
4. (1) A stock exchange in IFSC shall be a subsidiary of any stock exchange recognised in India or in a foreign jurisdiction, on its own or through a consortium.

(2) A clearing corporation in IFSC shall be a subsidiary of any stock exchange or clearing corporation recognised in India or in a foreign jurisdiction, on its own or through a consortium.

(3) A depository in IFSC shall be a subsidiary of a regulated depository in India or in a foreign jurisdiction, on its own or through a consortium:

Provided that a depository registered with SEBI may form a branch to operate as a depository in IFSC, subject to the depository ring fencing its operations in the IFSC.

5. An application for recognition as a market infrastructure institution in IFSC shall be submitted to the Authority in the form and manner, and shall be accompanied by the fee as may be prescribed by the Authority.
6. An application for recognition as a stock exchange or a clearing corporation in IFSC, as the case may be, shall be accompanied by a copy of the memorandum of association, articles of association, bye-laws and other documents as provided in sections 3 and 4 of the SCRA, rule 5 of the rules and these

regulations.

7. An application for recognition as a depository in IFSC in the form of subsidiary shall be accompanied by a copy of the draft bye-laws of the depository that is proposed to be set-up in IFSC.

Requirements for grant of recognition

8. (1) An applicant seeking recognition as a stock exchange or clearing corporation, as the case may be, shall comply with the following conditions, namely, -
 - a) the applicant is a company limited by shares;
 - b) the applicant is demutualised;
 - c) the applicant, its directors and its shareholders who hold or intend to hold shares, are fit and proper persons as specified in these regulations;
 - d) the applicant satisfies the requirements relating to the ownership and governance structure specified in these regulations;
 - e) the applicant satisfies the net worth requirements specified in these regulations;
 - f) the applicant satisfies the requisite capability including its financial capacity, functional expertise and infrastructure.
- (2) An applicant seeking recognition as a stock exchange shall, in addition to the conditions specified in sub-regulation (1), comply with the following conditions, namely, -
 - a) the applicant has the necessary infrastructure for the orderly execution of trades;
 - b) the applicant has an online screen-based trading system;
 - c) the applicant has an online surveillance capability which monitors positions, prices and volumes in real time so as to ensure market integrity;
 - d) the applicant has adequate infrastructure to list securities for trading on its platform, wherever applicable;
 - e) the applicant has necessary capability to have a comprehensive network of trading members and has adequate facility to admit and regulate its members;
 - f) the applicant has made necessary arrangements to establish connectivity with its trading members and clearing corporation;
 - g) the applicant has adequate investor education and protection fund;
 - h) the applicant has adequate investor grievances redressal mechanism and arbitration mechanism to resolve disputes arising out of trades and its settlement;
 - i) the applicant has the facility to disseminate information about trades, quantities and quotes in real time to at least two information vending networks which are accessible to investors;

- j) the applicant has adequate systems' capacity supported by a business continuity plan including a disaster recovery site;
 - k) the applicant has in its employment, sufficient number of persons having adequate professional and other relevant experience; and
 - l) any other conditions as may be specified by the Authority.
- (3) An applicant seeking recognition as a clearing corporation shall, in addition to the conditions specified in sub-regulation (1), comply with the following conditions, namely, -
- a) the applicant has necessary infrastructure to ensure timely clearing and settlement of trades;
 - b) the applicant has adequate risk management mechanism;
 - c) the applicant has a settlement procedure including netting, novation and guarantee for settlement of trades in place, which is in accordance with the manner specified by the Authority;
 - d) the applicant has the capacity to establish a fund to guarantee settlement of trades;
 - e) the applicant has necessary capability to have a wide network of clearing members and has adequate facility to admit and regulate its members;
 - f) the applicant has established connectivity with the depositories, clearing banks, stock exchange and clearing members;
 - g) the applicant has adequate systems' capacity for on-line/real time risk management of trades cleared and settled and is supported by a suitable business continuity plan including a disaster recovery site;
 - h) the applicant has in its employment, sufficient number of persons having adequate professional and other relevant experience to the satisfaction of the Authority;
 - i) the applicant has the necessary arrangements in place for resolving disputes and redressal of grievances arising out of clearing and settlement of trades;
 - j) the applicant has an agreement with a depository and with a recognised stock exchange in respect of clearing and settlement of the trades;
 - k) the business feasibility plan has been appraised by a reputed agency having expertise in securities market; and
 - l) any other conditions as may be specified by the Authority.
- (4) An applicant seeking recognition as a depository shall have the necessary resources for efficient and orderly functioning of a depository and in particular, comply with the following conditions:
- a) the depository satisfies the net-worth requirements specified in these regulations;
 - b) the bye-laws and legal documents are consistent with the objective of the depository and

protecting the interest of investors;

- c) the automatic data processing systems of the depository have been protected against unauthorised access, alteration, destruction, disclosure or dissemination of records and data;
- d) the network through which continuous electronic means of communications are established between the depository, participants, issuers and issuers' agents is secure against unauthorised entry or access;
- e) the depository has established standard transmission and encryption formats for electronic communications of data between the depository, participants, issuers and issuers' agents;
- f) the physical or electronic access to the premises, facilities, automatic data processing systems, data storage sites and facilities including back up sites and facilities and to the electronic data communication network connecting the depository, participants, issuers and issuers' agents is controlled, monitored and recorded;
- g) the depository has a detailed operations manual explaining all aspects of its functioning, including the interface and method of transmission of information between the depository, issuers, issuers' agents, participants and beneficial owners;
- h) the depository has established adequate procedures and facilities to ensure that its records are protected against loss or destruction and arrangements have been made for maintaining back up facilities at a location different from that of the depository;
- i) the depository has made adequate arrangements including insurance for indemnifying the beneficial owners for any loss that may be caused to such beneficial owners by the wrongful act, negligence or default of the depository or its participants or of any employee of the depository or participant; and
- j) any other conditions as specified by the Authority.

Grant of recognition

9. (1) The Authority may, after considering the application and on being satisfied that the applicant has complied with the conditions laid down in these regulations and is eligible to act as a stock exchange, a clearing corporation, or a depository, as the case may be, grant recognition to the applicant subject to conditions as the Authority may deem fit;

(2) A recognised market infrastructure institution shall comply with conditions as may be imposed by the Authority from time to time.
10. The period of recognition granted to a market infrastructure institution shall be permanent or for such period not less than one year as may be specified by the Authority.

Regulatory Fee

11. A recognised market infrastructure institution shall pay the regulatory fee as specified by the Authority from time to time.

Renewal of application

12. The provisions of these regulations, as applicable to the grant of recognition shall also apply in relation to an application for renewal of recognition of a stock exchange or a clearing corporation, as the case may be.

Withdrawal of recognition

13. The recognition granted to a market infrastructure institution may be withdrawn by the Authority after giving a reasonable opportunity of being heard:

Provided that the recognition granted to a stock exchange or a clearing corporation shall be withdrawn in the manner provided under section 5 of the SCRA.

Net Worth Requirements

14. (1) A recognised stock exchange shall have net worth of at least INR 25 crores or any higher amount as may be specified by the Authority.
- (2) A recognised clearing corporation shall have net worth of at least INR 50 crores or any higher amount as may be specified by the Authority.
- (3) A recognised depository shall have net worth of at least INR 25 crores or any higher amount as may be specified by the Authority.
15. A recognised market infrastructure institution shall submit an audited net worth certificate from the statutory auditor on a yearly basis by the thirtieth day of September of every year for the preceding financial year, to the Authority.

Shareholding Requirements

16. (1) The recognised stock exchange shall be a subsidiary of an Indian stock exchange or a stock exchange of a foreign jurisdiction, on its own or through a consortium, where at least fifty-one per cent of its paid-up equity share capital shall be held by such stock exchange or consortium:
- Provided that the parent stock exchange shall be the largest shareholder with minimum twenty-six per cent of the paid-up equity share capital of the recognised stock exchange.
- (2) Any other person (whether Indian or of foreign jurisdiction) shall not at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than twenty-five per cent of the paid-up equity share capital in the recognised stock exchange.
- (3) No clearing corporation shall hold any right, stake or interest, of whatsoever nature, in any recognised stock exchange.
17. (1) A recognised clearing corporation shall be a subsidiary of a stock exchange or clearing corporation in India or a foreign jurisdiction, on its own or through a consortium, where at least fifty-one per cent

of paid-up equity share capital is held by such stock exchange or clearing corporation on its own or through the consortium.

Provided that the parent stock exchange or clearing corporation, as the case may be, shall be the largest shareholder with minimum twenty-six per cent of the paid-up equity share capital of the recognised clearing corporation.

(2) Any other person (whether Indian or in foreign jurisdiction) shall not at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than twenty-five per cent of the paid-up equity share capital in the recognised clearing corporation.

18. (1) A recognised depository operating as a branch shall comply with the shareholding requirements prescribed by SEBI.

(2) A recognised depository operating as a subsidiary shall be a subsidiary of a depository registered in India or any foreign jurisdiction, on its own or through a consortium, wherein, -

(a) at least fifty-one per cent of paid-up equity share capital is held by such depository on its own or through the consortium:

Provided that the parent depository shall be the largest shareholder with minimum twenty-six per cent of the paid-up equity share capital of the recognised depository.

(b) any other person (whether Indian or in foreign jurisdiction) shall not at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than twenty-five per cent of the paid-up equity share capital in the recognised depository.

19. (1) Any person who acquires equity shares or voting rights, in a market infrastructure institution, directly or indirectly, either individually or together with persons acting in concert, that entitles the person(s) so acquiring to exercise any voting rights more than ten per cent of the paid-up equity share capital, shall seek prior approval of the Authority.

(2) The market infrastructure institution shall verify the declarations/undertakings given by such persons and forward the application along with its recommendation for approval to the Authority.

(3) This regulation shall not apply to a recognised depository operating as a branch of an Indian depository.

Monitoring of Shareholding

20. A recognised market infrastructure institution shall put in place an adequate monitoring mechanism to ensure compliance with the shareholding conditions specified in these regulations, at all times.

Disclosure of shareholding

21. A recognised market infrastructure institution shall disclose to the Authority their shareholding pattern on a quarterly basis within fifteen days from the end of each quarter, including therein the following, -

(a) the names of the ten largest shareholders along with the number and per cent of shares held by them; and

- (b) the names of the shareholders who had acquired shares in that quarter.

Listing of MIIs

22. A recognised market infrastructure institution may apply for listing of its securities on any stock exchange, other than itself and its associated stock exchange, pursuant to approval of the Authority.

Fit and proper requirements

23. (1) A recognised market infrastructure institution shall ensure that all its directors, key management personnel and shareholders are fit and proper persons, at all times.

- (2) For the purposes of sub-regulation (1), a person shall be deemed to be a fit and proper person if:

- (a) such person has a general reputation and record of fairness and integrity, including but not limited to –

- (i) financial integrity;
- (ii) good reputation and character; and
- (iii) honesty.

- (b) such person has not incurred any of the following disqualifications –

- (i) the person or any of its whole-time directors or managing partners, has been convicted by a court for any offence involving moral turpitude or any economic offence or any offence against the securities laws;
- (ii) an order for winding up has been passed against the person;
- (iii) the person, or any of its whole-time directors or managing partners, has been declared insolvent and has not been discharged;
- (iv) an order, restraining, prohibiting or debarring the person or any of its whole-time directors or managing partners, from dealing in financial products or financial services or from accessing the securities market, has been passed by the Authority or any other regulatory authority and a period of three years from the date of the expiry of the period specified in the order has not elapsed;
- (v) any other order against the person, or any of its whole-time directors or managing partners, which has a bearing on the securities market, has been passed by the Authority or any other regulatory authority, and a period of three years from the date of the order has not elapsed;
- (vi) the person has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force;
- (vii) the person is financially not sound or has been categorized as a wilful defaulter;

(viii) the person has been declared a fugitive economic offender; or

(ix) any other disqualification as specified by the Authority.

CHAPTER III

GOVERNANCE OF MARKET INFRASTRUCTURE INSTITUTIONS

Governance norms

24. (1) A recognised market infrastructure institution shall adopt the broader principles of governance prescribed under the Principles for Financial Market Infrastructures prescribed by Committee on Payments and Market Infrastructures and International Organization of Securities Commissions and such other governance norms as may be specified by the Authority, from time to time.

(2) The governing board of a recognised market infrastructure institution shall include shareholder directors, public interest directors, and managing director, subject to the following:

- a) The chairperson shall be elected by the governing board from amongst the public interest directors;
- b) The number of public interest directors shall not be less than the number of shareholder directors;
- c) The managing director shall be included in the category of shareholder directors;
- d) Any employee of a recognised stock exchange or recognised clearing corporation may be appointed on the governing board in addition to the managing director and such director shall be deemed to be a shareholder director;
- e) The trading members or clearing members in IFSC or their associates and agents (except persons on board of a public sector bank or a public financial institution) shall not be on the governing board of a recognised stock exchange or a recognised clearing corporation;
- f) The appointment of directors of a recognised market infrastructure institution shall be subject to the prior approval of the Authority and the fulfilment of other requirements as may be specified by the Authority.
- g) Public interest director shall be nominated for a term of three years, extendable by another term of three years subject to performance review as may be specified by the Authority;
- h) The appointment of managing director shall be for a term not exceeding five years subject to maximum age limit of 65 years.

Provided that the managing director may be re-appointed subject to approval of the Authority.

(3) The roles and responsibilities of the governing board of a recognised market infrastructure institution should be clearly specified and the procedures for its functioning, including procedures to identify, address, and manage conflicts of interest should be documented.

(4) The governing board of a recognised market infrastructure institution shall review the overall performance and the performance of its individual directors regularly.

(5) Nothing in sub-regulations (2), (3) and (4) shall apply to a recognised depository operating as a branch in IFSC.

Code of Conduct for directors and key management personnel

25. (1) Every director and key management personnel of a recognised market infrastructure institution shall abide by the Code of Ethics and Code of Conduct as may be specified by the Authority.

(2) The Authority may, for any failure by the directors or key management personnel to abide by these regulations or Code of Ethics and conduct or in case of any conflict of interest, either upon a reference from the recognised market infrastructure institution or *suo motu*, take appropriate action including removal or termination of the appointment of any director or key management personnel, after providing them with a reasonable opportunity of being heard.

Committees

26. A recognised market infrastructure institution, operating as a subsidiary in IFSC, shall constitute committees, as may be specified by the Authority from time to time.

Segregation of regulatory departments

27. A recognised market infrastructure institution shall adopt an appropriate policy to segregate its regulatory departments from other departments.

CHAPTER IV

GENERAL OBLIGATIONS OF A RECOGNISED STOCK EXCHANGE AND A RECOGNISED CLEARING CORPORATION

Clearing and settlement of trades

28. (1) A recognised stock exchange shall use the services of a recognised clearing corporation for clearing and settlement of its trades in accordance with an agreement between them.

(2) A recognised stock exchange shall extend its arbitration mechanism for settlement of disputes or claims arising out of clearing and settlement of trades executed on such stock exchange.

Admission of securities for clearing and settlement

29. A recognised stock exchange or a recognised clearing corporation, as the case may be, shall seek prior approval of the Authority before introducing or offering settlement services to any new category of securities.

Investor Education and Protection Fund

30. A recognised stock exchange shall establish a fund for the purpose of investor education and providing compensation to investors in the case of defaults by the trading members, in the manner as may be specified by the Authority.

Fund to guarantee settlement of trades

31. (1) A recognised clearing corporation shall establish and maintain a fund to guarantee the settlement of trades executed on a stock exchange.
- (2) The fund shall have a corpus equivalent to at least the minimum required corpus as arrived at from the monthly stress test value or USD 1 million, whichever is higher.
- (3) In the event of a recognised clearing member failing to honour its settlement obligations, the fund shall be utilized to complete the settlement.
- (4) The corpus of the fund shall be adequate to meet the settlement obligations arising on account of failure of clearing member(s).
- (5) The sufficiency of the corpus of the fund shall be tested by way of periodic stress tests, in the manner specified by the Authority.
- (6) A recognised clearing corporation shall evolve a detailed framework for the settlement guarantee fund, subject to approval of the Authority.

Risk Management

32. (1) A recognised stock exchange and a recognised clearing corporation shall have a sound risk management system and infrastructure for comprehensively managing risks.
- (2) A recognised stock exchange shall evolve a detailed framework for the applicable position limits for each product to be traded.
- (3) A recognised clearing corporation shall evolve a robust risk management framework and shall comply with the following:
- a) The risk management framework shall be in line with the Committee on Payments and Market Infrastructures and International Organization of Securities Commissions' Principles for Financial Market Infrastructures.
 - b) A recognised clearing corporation shall evolve a margining framework based on the best practices prevailing in the clearing corporations globally.
 - c) The recognised clearing corporation shall on an ongoing basis maintain capital including retained earnings and reserves, to adequately cover counterparty credit risk, business risk, legal and operational risk.
 - d) A clearing corporation shall conduct stress tests, reverse stress tests, back testing, liquidity stress testing, etc. to ensure the robustness of risk management framework.

- e) A clearing corporation shall accept cash and cash equivalents (including major foreign currencies, term deposit receipts and bank guarantees issued by an IFSC banking unit), Indian securities held with foreign depositories, foreign securities or gold, as eligible collateral for trades in all product categories.
 - f) The cash and cash equivalents as collateral shall form at least 50% of the total liquid assets at all times.
- (4) A recognised clearing corporation shall be ring fenced from its holding company.
- (5) A recognised clearing corporation shall hold additional capital to cover costs required for orderly wind-down or recovery of operations.

Halting Trading by stock exchange

33. A recognised stock exchange shall have procedures to temporarily halt trading in market or individual scrip in response to volatility of the market or the individual scrip, or in anticipation of major company-specific announcements for promoting fair and orderly trading.

Co-Location by stock exchange

34. (1) A recognised stock exchange providing co-location facilities shall supervise and monitor such facilities and shall ensure that the integrity, security and privacy of data and trading systems are maintained, at all times.
- (2) A recognised stock exchange providing co-location facilities shall publish quarterly reports on their websites on latencies observed at the exchange.

Business Continuity Plan and Disaster Recovery

35. A recognised stock exchange and a recognised clearing corporation shall set up a disaster recovery site sufficiently away in a different seismic zone from primary data centre and shall comply with the provisions relating to business continuity plan and disaster recovery as may be prescribed by the Authority, from time to time.

Utilization of profits and investments

36. (1) The utilization of profits and investments by a recognised stock exchange or a recognised clearing corporation shall be in accordance with the norms specified by the Authority.
- (2) The recognised stock exchange or recognised clearing corporation shall not carry on any activity whether involving deployment of funds or otherwise without prior approval of the Authority:

Provided that prior approval of the Authority shall not be required in case of treasury investments if such investments are as per the investment policy approved by the governing board of recognised stock exchange or recognised clearing corporation;

Provided further, that the recognised stock exchange or recognised clearing corporation may engage in activities involving deployment of funds or otherwise that are unrelated or not incidental to its activity as a stock exchange or clearing corporation, as the case may be, through a separate legal entity and subject to approval of the Authority.

Equal, fair and transparent access

37. (1) A recognised clearing corporation shall lay down a policy framework for ensuring that there is no discrimination while rendering clearing and settlement services in settlement of trades executed on shareholder stock exchange and executed on non-shareholder stock exchange.
- (2) The framework shall be made available on the website of the clearing corporation and shall provide the basis on which access to clearing and settlement services of the clearing corporation has been provided to a shareholder stock exchange along-with the manner in which the said requirements should be complied with by a non-shareholder stock exchange to obtain access to clearing and settlement services.
- (3) A recognised stock exchange or a recognised clearing corporation, as the case may be, shall ensure equal, unrestricted, transparent and fair access to all persons without any bias towards its associates and related entities.

Maintenance of books of accounts and records

38. (1) A recognised stock exchange shall maintain and preserve the books of account and documents referred in rule 14 of the rules for a minimum period of eight years (if maintained in physical form) and twenty years in electronic form.
- (2) A recognised clearing corporation shall maintain and preserve the following books of account and documents namely:-
- a) Minute books of the meetings of:
 - (i) governing board;
 - (ii) any committees of the governing board;
 - b) Record of clearing members showing their full names, addresses and details of bank and depository accounts for settlement purposes;
 - c) Transaction records;
 - d) Record of security deposits;
 - e) Margin deposits book;
 - f) Client margin collection details;
 - g) Ledgers;

- h) Journals;
- i) Cash book;
- j) Bank account statement;
- k) Such other books of accounts and documents as may be specified by the Authority from time to time.

Bye-laws and rules of stock exchanges and clearing corporation

- 39.** (1) A recognised stock exchange and recognised clearing corporation shall, with the prior approval of the Authority, make bye-laws for the regulation of contracts and clearing and settlement, as the case may be.
- (2) No memorandum of association, articles of association or any other constitution document, in so far as they relate to matters specified in section 3 of the SCRA or under these regulations and bye-laws of a recognised stock exchange or a recognised clearing corporation, shall be amended except with prior approval of the Authority.

Settlement and netting

- 40.** (1) The payment and settlement in respect of a transaction in a recognised stock exchange and recognised clearing corporation shall be determined in accordance with the netting or gross procedure as specified in the bye-laws of such recognised stock exchange and recognised clearing corporation, with the prior approval of the Authority.
- (2) Payment and settlement in respect of a transaction between parties referred to in sub- regulation (1), effected under the bye-laws of a recognised stock exchange or recognised clearing corporation, shall be final, irrevocable and binding on such parties.
- (3) When a settlement has become final and irrevocable, the right of the recognised stock exchange or the recognised clearing corporation, as the case may be, to appropriate any collaterals or deposits or margins contributed by the trading member, clearing member or client towards its settlement or other obligations in accordance with the bye-laws of the recognised stock exchange or recognised clearing corporation shall take priority over any other liability of or claim against the said trading member, clearing member or client, as the case may be.

Explanation. - For removal of doubts, the settlement, whether gross or net, referred to in this regulation is final and irrevocable as soon as the money, securities or other transactions payable as a result of such settlement is determined, whether or not such money, securities or other transactions is actually paid.

Obligation of Clearing Corporation in Commodity Derivatives

- 41.** The recognised clearing corporation providing clearing and settlement services for commodity derivatives which result in physical settlement shall ensure guarantee for settlement of trades including good delivery.

Explanation: For the purpose of this regulation, “good delivery” shall mean the delivery of goods that is in proper form to transfer title and is of the quality and quantity as per contract specifications of the concerned exchange.

Right of Clearing Corporation

42. The right of a recognised clearing corporation to recover the dues from its clearing members, arising from the discharge of their clearing and settlement functions, from the collaterals, deposits and the assets of the clearing members, shall have priority over any other liability of or claim against the clearing members.

CHAPTER V

GENERAL OBLIGATIONS OF A RECOGNISED DEPOSITORY

Security eligible for dematerialisation

43. All securities, as defined under the SCRA or as maybe prescribed by the Authority, shall be eligible for being held in dematerialised form in a recognised depository.

Agreement between depository and participant

44. A recognised depository shall enter into an agreement with one or more participants as its agent.

Agreement between depository and issuer

45. (1) Either on the issuer or on the investor exercising an option to hold his securities with a recognised depository in dematerialised form, the issuer shall enter into an agreement with the depository to enable the investor to dematerialise the securities:

Provided that no agreement shall be required to be entered into where the depository itself is an issuer of securities:

Provided further that no such agreement shall be required to be entered into where a State or the Central Government of India is the issuer of government securities.

- (2) Where the issuer has appointed a Registrar to the Issue or Share Transfer Agent, the depository shall enter into a tripartite agreement with the issuer and the Registrar to the Issue or Share Transfer Agent, as the case may be, in respect of the securities to be declared by the depository as eligible to be held in dematerialised form.

Systems and Procedures

46. A recognised depository shall have systems and procedures which will enable it to co-ordinate with the issuer or its agent, and the participants, to reconcile the records of ownership of securities with the issuer or its agent, as the case may be, and with participants, on a daily basis.
47. A recognised depository shall have adequate mechanisms for the purposes of reviewing, monitoring

and evaluating the depository's controls systems, procedures and safeguards.

48. Where records are kept electronically by the depository, it shall ensure that the integrity of the automatic data processing systems is maintained at all times and take all precautions necessary to ensure that the records are not lost, destroyed or tampered with and in the event of loss or destruction, ensure that sufficient back up of records is available at all times at a different place.
49. A recognised depository shall cause an inspection of its controls, systems, procedures and safeguards to be carried out annually and forward a copy of the report to the Authority.

Connectivity

50. A recognised depository shall maintain continuous electronic means of communication with all its participants, issuers or issuers' agents, clearing houses and clearing corporations of the stock exchanges and with other depositories.

Mechanism for investor protection

51. A recognised depository shall satisfy the Authority that it has a mechanism in place to ensure that the interests of the persons buying and selling securities held in the depository are adequately protected.
52. A recognised depository shall take adequate measures including insurance to protect the interests of the beneficial owners against risks likely to be incurred on account of its activities as a recognised depository.

Withdrawal by participant

53. A recognised depository shall allow any participant to withdraw, or transfer its account, if the request for such withdrawal or transfer is in accordance with conditions stipulated in the bye-laws of the depository.

Risk Management

54. A recognised depository shall have a sound risk management system and infrastructure for comprehensively managing risks.

Business Continuity Plan and Disaster Recovery

55. A recognised depository shall have adequate business continuity plan for data and electronic records to prevent, prepare for, and recover from any disaster.

Maintenance of records

56. (1) A recognised depository shall maintain the following records and documents, namely –
 - a) records of securities dematerialised and rematerialised;

- b) the names of the transferor, transferee, and the dates of transfer of securities;
 - c) a register and an index of beneficial owners;
 - d) details of the holding of the securities of beneficial owners as at the end of each day;
 - e) records of instructions received from and sent to participants, issuers, issuers' agents and beneficial owners;
 - f) records of approval, notice, entry and cancellation of pledge or hypothecation, as the case may be;
 - g) details of participants;
 - h) details of securities declared to be eligible for dematerialisation in the depository; and (i) such other records as may be specified by the Authority for carrying on the activities as a recognised depository.
- (2) A recognised depository shall intimate the Authority the place where the records and documents are maintained.
- (3) A recognised depository shall maintain all records and documents as provided in sub-regulation (1), for a minimum period of eight years (if maintained in physical form) and twenty years in electronic form.

Co-operation

57. A recognised depository shall extend all such co-operation to the beneficial owners, issuers, issuers' agents, custodians of securities, other depositories and clearing organizations as is necessary for the effective, prompt and accurate clearance and settlement of securities transactions and conduct of business.

Pledge

58. A recognised depository shall have in its bye-laws, the procedure for creation of pledge by beneficial owners on a security owned by it.

Equal, fair and transparent access

59. A recognised depository shall ensure equal, unrestricted, transparent and fair access to all persons without any bias towards its associates and related entities.

Audit Report by Issuers

60. Every issuer shall submit audit report on a quarterly basis to the concerned stock exchanges audited by a chartered accountant or a practicing Company Secretary, for the purposes of reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form, the details of changes in share capital during the quarter and the in-principle approval obtained by the issuer from all the stock exchanges where it is listed in respect of such further issued capital.

CHAPTER VI
MISCELLANEOUS

Maintenance of website

61. A recognised market infrastructure institution shall maintain a website or any other universally accessible repository of electronic information to:
- a) publish all information that it is obliged to publish under these regulations;
 - b) provide a copy of all rules, regulations, bye-laws made and all guidance issued, including all amendments therein;
 - c) provide information about the manner in which applications to be made for membership or association; and
 - d) provide material information about the functions.

Record keeping

62. In addition to the requirements under other laws in force, a market infrastructure institution shall maintain and preserve all the books, registers, other documents and records relating to the issue or transfer of its securities for a period of not less than eight years (if maintained in physical form) and twenty years in electronic form.

Compliance Officer

63. (1) A recognised market infrastructure institution shall appoint a compliance officer who shall be responsible for monitoring the compliance of the securities laws and for redressal of investors' grievances.
- (2) The compliance officer shall immediately and independently report to the Authority any noncompliance observed by him.

Returns and reports

64. (1) A recognised market infrastructure institution shall furnish such returns, statements and particulars, in the manner as may be specified by the Authority.
- (2) A recognised market infrastructure institution shall furnish to the Authority its annual financial statements and returns by the thirtieth of September of every year:

Provided that a recognised stock exchange and a recognised clearing corporation shall include in its report information required as per rule 17 and 17A of the rules.

Power to call for information

65. The Authority may call for any information, documents or records from a recognised market infrastructure institution, or their governing board or any shareholder thereof.

Inspection

66. (1) The Authority may at any time undertake inspection, conduct inquiries and audit of any market infrastructure institution, its associates or any of its shareholders.

(2) Where an inspection is undertaken by the Authority, such recognised market infrastructure institution or shareholder or associate and every manager, director, managing director, chairperson or officer and other employee of such institution, shareholder or associate shall cooperate with the Authority.

(3) The Authority shall after consideration of inspection or investigation report take such action as it may deem fit and appropriate.

Directions by the Authority

67. Without prejudice to the exercise of its powers under the provisions of the IFSCA Act and rules and regulations made thereunder, the Authority may, either *suo motu* or on receipt of any information or during pendency of any inspection, inquiry or investigation or on completion thereof, in the interest of public or trade or investors or the securities market in the IFSC, issue such directions as it deems fit.

Appointment of Auditor by the Authority

68. The Authority shall have the power to appoint an auditor to inspect or investigate, into the books of account, records, documents, infrastructures, systems and procedures or affairs of a recognised market infrastructure institution.

Authority to recover the expenses

69. The Authority shall be entitled to recover from the recognised market infrastructure institution such expenses including fees paid to the auditors as may be incurred by it for the purposes of inspecting or investigating the books of account, records, documents, infrastructures, system and procedures of a recognised market infrastructure institution.

Power to remove difficulties

70. In order to remove any difficulties in the interpretation or application of the provisions of these regulations, the Authority shall have the power to issue directions through guidance notes or circulars.

Power to relax strict enforcement of the regulations

71. (1) The Authority may, in the interest of development and regulation of financial services in IFSC, relax the strict enforcement of any requirement of these regulations.

- (2) For seeking relaxation under sub-regulation (1), an application, giving details and the grounds on which such relaxation has been sought, shall be filed with the Authority along with a non-refundable fee of USD 1500.
- (3) The Authority shall process such application within thirty days of the date of receipt of the application complete in all respects and shall record reasons for acceptance or refusal of the relaxations sought by the applicant.

Power to specify procedures and issue clarifications

72. For the purposes of implementation of these regulations and matters incidental thereto, the Authority may specify norms, procedures, processes, manners or guidelines as specified in these regulations, by way of circulars to market infrastructure institutions.

Repeal and Savings

73. (1) On and from the commencement of these regulations, the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 and Chapter II of the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 shall not apply in IFSC.
- (2) On and from the commencement of these regulations, Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 shall not apply in IFSC in so far as the provisions pertain to a depository and all the provisions in the aforementioned regulations pertaining to a depository participant or issuer shall continue to apply in IFSC.
- (3) Notwithstanding (1) and (2) above, anything done or any action taken or purported to have been taken under the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018, Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018 and Chapter II of the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 before the commencement of these regulations shall be deemed to have been done or taken or commenced under the corresponding provisions of these regulations.
- (4) The SEBI circular SEBI/HO/MRD/DSA/CIR/P/2016/125 dated November 28, 2016 shall stand repealed.
- (5) The circulars and guidelines issued by SEBI and applicable to a market infrastructure institution in IFSC shall continue to be in force unless and until they are superseded by any regulations or circulars or guidelines by the Authority.