

# **International Financial Services Centres Authority (Management Control, Administrative Control and Market Conduct of insurance business) Regulations, 2023**

UNION OF INDIA

India

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### **Regulation IFSCA-2022-23-GN-REG035 of 2023**

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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 (zd) of sub-section (2) of Section 114A of the Insurance Act, 1938, the International Financial Services Centres Authority hereby makes the following regulations, namely -

## **Chapter I General**

### **1. Short title, commencement and applicability.**

(1) These regulations may be called the International Financial Services Centres Authority (Management Control, Administrative Control and Market Conduct of insurance business) Regulations, 2023. (2) They shall come into force on the date of their publication in the Official Gazette. (3) These regulations shall be applicable to all International Financial Services Centres Insurance Offices (IIOs), and also to the International Insurance Intermediary Offices (IIIOs), to the extent specified hereunder.

### **2. Objective.**

These regulations aim to put in place the regulatory framework related to Management Control, Administrative Control and Market Conduct of insurance business carried out by an IIO or IIIO.

### 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) 'benefits' refers to any promise or payment of incentive, direct or indirect, or both, in the nature of commissions, compensations, coupons, incentives, performance-based bonuses, rewards, remunerations, stock options, gratuity, insurance protection, cost of setting up infrastructure, competition prizes etc. and includes any other payment or incentive of similar nature; (d) 'Board' means the board of directors of an IIO; or the Board of the Parent Entity of an IIO, in case the IIO is in an unincorporated form; (e) 'capital' means the capital of an IIO, and includes equity share capital, preference share capital and subordinated debt; (f) 'commission' means any benefit payable to an insurance agent, intermediary or insurance intermediary in consideration of availing their services in relation to solicitation, procurement, retention or conversion of insurance policies; (g) 'control' means and include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner; (h) 'confidential information' - (i) in relation to a foreign entity, means the information obtained from a foreign entity that cannot be made available in public domain regarding which the concerned foreign entity has requested that secrecy be maintained either explicitly or under any agreement or Memorandum of Understanding to which both the foreign entity and the Authority are signatories, (ii) in relation to domestic entity, means the information defined as such in the applicable domestic laws; (i) 'custodian of information' shall mean an officer, not below the rank of Deputy General Manager, of the Authority in whose custody the confidential information is kept; (j) 'domestic entity' for the purposes of these regulations shall mean an entity registered with the Authority for carrying out insurance or re-insurance business in an International Financial Services Centre; (k) 'expenses of management' or 'EoM' includes all operating expenses such as commission, remuneration payable to the insurance agents, intermediaries or insurance intermediaries; Explanation: charges against profit such as income tax, wealth tax, service tax and other taxes borne by the IIO shall not form part of EoM; (l) 'Foreign entity' means an entity incorporated and registered outside India and includes a foreign financial regulatory authority; (m) 'information' - (i) in relation to a foreign entity, means information in any material form relating to a foreign authority being a foreign financial regulatory authority and/or information relating to any other foreign financial entity; (ii) in relation to a domestic entity, shall be as defined in Section 2 (f) of The Right to Information Act 2005; (n) 'regulated entity' means an entity registered with the Authority for carrying insurance or reinsurance business in the International Financial Services Centre and includes an entity which has applied for carrying out insurance or re-insurance business in the International Financial Services Centre; (o) 'requesting authority' means the authority making request to other authority for information under these regulations; (p) 'requested authority' means the authority to whom request for information is made under these regulations; (q) 'subordinated debt' for the purposes of these regulations means "Debenture" as defined in Section 2(30) of the Companies Act, 2013 and includes any other debt instrument permitted by the Authority. (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.

## **Chapter II Change in Shareholding Pattern and Management Control**

### **4. The provisions of this Chapter shall not be applicable to an IIO set up in an unincorporated form;**

Provided that the Parent Entity of such IIO shall immediately notify the Authority about the changes, if any, in its Shareholding Pattern or Management Control; Provided further that the Parent Entity of such IIO shall ensure that the undertakings given to the Authority regarding maintenance of assigned capital or solvency margin and for meeting all liabilities arising out of insurance or re-insurance business carried out by such IIO, shall continue to remain valid even after change in shareholding pattern or management control.

### **5. An IIO shall endeavour to prevent any entity from exercising control over it, directly or indirectly, by acquiring significant ownership or interest in the IIO, through portfolio transfers, leading to change in shareholding pattern.**

### **6. In case of any proposed change in shareholding pattern or management control, an IIO shall-**

(1) inform the Authority of the proposal that could lead to change in control; (2) not issue and allot capital in any form, without obtaining prior approval of the Authority; (3) inform the Authority about proposed change of portfolios; Provided that in case the proposed change is beyond the limit specified by the Authority, prior approval from the Authority shall be obtained by the IIO. (4) ensure that the proposed changes in portfolio, shareholding pattern or management control do not affect the seniority of claims; (5) ensure seniority of the claims in the following order of priority: (a) policyholders, (b) creditors, (c) subordinated debt holders, (d) preference shareholders, and (e) equity shareholders. (6) not guarantee any instrument which may affect seniority of claims; (7) not pay dividends on Preference Shares, or pay interest on any Subordinated Debt, without prior approval of the Authority, where - (a) the solvency ratio is below the minimum Control Level of Solvency, as specified by the Authority; (b) the impact of such accrual/ payment would result in the Control Level of Solvency falling or remaining below the specified regulatory requirement; or (c) payment of dividend or interest (including accrued interest) would result in net loss or increase the net loss. (8) provide complete details to the Authority in advance, about the shareholders or any other entities which may be eligible for compensation due to portfolio transfer or change in control;

**7. The Authority may specify the hair-cut norms on different type of instruments for the purposes of computing 'Available Solvency Margin';**

**8. The Authority may issue guidelines in relation to issuance and allocation of capital of the IIOs;**

**9. In case of a merger, amalgamation or transfer involving an IIO, such IIO shall obtain prior approval of the Authority and shall also ensure that**

(a) the available solvency margin of the proposed merged entity will not be lower than the required solvency margin;(b) the scheme is compliant with all applicable laws and regulations; and(c) the scheme does not compromise on the best interests of the policyholders.

## **Chapter III Internal Administrative Controls**

### **10. Expenses of Management.**

(1) Every IIO shall formulate a policy, duly approved by its Board, for allocation of direct expenses and apportionment of indirect expenses of management under respective insurance segments;(2) Such policy shall, inter-alia, include the following -(a) the expenses that shall be allocated and the basis thereof;(b) the expenses which shall be apportioned and the basis thereof;(c) the expenses of acquisition and renewal of policies, and the manner of such allocation and / or apportionment; and(d) the manner in which the Policy shall be implemented and adhered to.(3) The approved policy on expenses of management shall be submitted to the Authority, as and when directed by it.(4) The Authority may specify the manner and form for submission of details of expenses of management.Provided that an IIO in an unincorporated form, may adopt Board approved policy of its parent entity, if the standards specified under these regulations are covered thereunder.

### **11. Payment of Commissions.**

(1) Every IIO shall formulate a policy, duly approved by its Board, for payment of commissions to insurance agents, intermediary or insurance intermediary.(2) Such policy shall consider the interests of policyholders and inter-alia include the following -(a) specify the services that qualify for commissions and/ or incentives, including the minimum and maximum entitlements payable to the insurance agents, intermediaries or insurance intermediaries; and(b) cost efficiency measures.(3) The payment of commission shall be commensurate with policy on expenses of management of the IIO;(4) The approved policy on payment of commission shall be submitted to the Authority, as and when directed by it;(5) Every IIO shall also comply with other requirements as may be specified by the Authority in this regard.

## **12. Places of Business.**

(1) Every IIO shall formulate a policy, duly approved by its Board, for procedures to be followed for opening or closing of a place of business; (2) Every IIO shall obtain prior approval of the Authority before opening or closing of a place of business; (3) Every IIO, while closing a place of business, shall mitigate the risks involved on account of such closure, including but not limited to, providing alternate facilities to existing policyholders ensuring uninterrupted access to insurance services, as well as servicing of their claims.

## **13. Outsourcing of Activities.**

(1) Every IIO shall ensure - (a) that it follows prudent practices on management of risks arising out of outsourcing with a view to preventing negative systemic impact and to protect the interests of the policyholders; (b) that sound and responsive management practices are followed for effective oversight and adequate due diligence is maintained while outsourcing the activities; (c) the privacy of data in respect of all policyholders. (2) Every IIO shall, prior to sharing of data related to policyholders, either execute a non-disclosure agreement (NDA) with the outsourcing agency or include relevant clauses of NDA in the service level agreement executed with such agency. (3) Every IIO shall comply with other requirements regarding outsourcing arrangements, as may be specified by the Authority.

## **14. Sharing of confidential information concerning domestic or foreign entity.**

(1) Disclosure of information related to a regulated entity shall be subject to the following - (a) The disclosure of information can be made only on receipt of a written request from the requesting authority for the sole purpose of the lawful performance of its duties; (b) The IFSCA shall appoint an official as Custodian of Information to preserve, protect and maintain the confidentiality of information received from requested authority; (c) Where IFSCA has received confidential information from a requested authority and such information is sought from IFSCA under a legally enforceable request, the IFSCA will notify and seek consent of such requested authority prior to sharing such information; (d) In case the requested authority does not give consent for sharing of such information, the IFSCA shall use all reasonable legal means to resist such a demand to protect the confidentiality of the information; (e) All present and past employees and agents of the IFSCA having access to confidential information, received either from a requested authority or a regulated entity, in the course of their duties while working with the IFSCA, shall be bound by an obligation of professional secrecy; (f) The IFSCA may specify additional requirements, obligations and procedures for maintenance of confidentiality of information received from regulated entities or any requested authority. (2) The information that can be sought under section 20 of the Insurance Act, 1938 is non-commercial and largely in public domain. All requests under this provision shall be examined to ensure that no information which may affect competition or stability of the regulated entities or the insurance industry, are shared. (3) Information sought for carrying out statutory and regulatory purposes by - (a) domestic regulators, including the regulators mentioned in column (2) of the First Schedule of the Act, (b) International supervisors and agencies; (c) various public authorities, Government of India, Judiciary, law enforcement agencies in the lawful performance of their

functions, shall be individually examined to assess whether it is (a) sharable information; or (b) non sharable information.(4) The assessment on shareability of the information not available in the public domain would be guided by the following broad consideration -(a) convincing reason for the request made - whether such reasons are to assist the lawful performance of the duties of such authorities;(b) nature of information sought (not proprietary);(c) maintenance of confidentiality of the information sought; and(d) reciprocity of the request made.(5) (i) Each request for information under these regulations shall be considered on its merit.(ii) While taking a decision on whether to share the information sought regarding an entity or not, the IFSCA shall be guided by the following principles-(a) whether the information sought is confidential and is likely to adversely affect the entity, commercially or otherwise; or(b) whether the information sought could be used by the competitors of the entity for their gain.(6) The requested authority may not share any information which in its opinion could possibly impact the stability of its regulated entity or the insurance industry.(7) In the event of any inconsistency between any clause or clauses of this regulation and the obligations cast on the IFSCA under the Multilateral Memorandum of Understanding with International Association of Insurance Supervisors, the latter shall prevail to the extent of such inconsistency.

## **Chapter IV Market Conduct**

### **15. Distribution of Surplus to Policyholders.**

(1) Every IIO permitted to transact life insurance business shall separately maintain -(a) a life insurance fund for participating policy holders; and(b) a life insurance fund for non-participating policy holders;(2) Every IIO permitted to transact life insurance business shall have a Board approved policy regarding Distribution of Surplus to Policyholders of Participating or Non-Participating Policies;(3) Every IIO shall disclose the relevant provisions in this regard to the policyholders as well as make provisions for the same in their book of accounts;(4) Every IIO shall submit the approved policy on distribution of surplus to the policyholders to the Authority, as and when directed by it.

### **16. Acquisition of Surrender and Paid-up Values of Life Insurance Policies.**

(1) Every IIO permitted to transact life insurance business, shall disclose to the policyholders about the conditions under which a Life Insurance Policy would acquire a Surrender Value, and the formula to be used for computing the Surrender Value from the Paid-Up Value.(2) Every IIO shall maintain provisions for making timely payments of Surrender Value of Linked and Non-Linked Life Insurance policies based on the Paid-up Values.

### **17. Minimum Limits for Annuities and other Benefits.**

(1) Every IIO permitted to transact life insurance business and dealing with pension and annuities product, shall design such products in such a way that it addresses the actual need of the policyholder and should not be merely symbolic;(2) An IIO dealing with pension and annuities

products shall not pay or undertake to pay amounts less than the amount as may be specified by the Authority.

## **18. Advertisements.**

(1) Every IIO and IIIIO, as the case may be, shall adopt fair, honest and transparent practices while issuing advertisements and avoid practices that tend to impair the confidence of the general public;(2) All advertisements issued by an IIO and IIIIO, as the case may be, through any mode or medium shall -(a) be relevant, fair and be in simple language, enabling informed decision making by prospect;(b) contain truthful and honest representation;(c) contain accurate data and be capable of substantiation;(d) ensure that the advertisement is in compliance with all applicable advertisement standards and relevant laws in India.(3) An IIO and IIIIO, as the case may be, shall be responsible for the accuracy of the communications in all forms of advertisements issued on its behalf;(4) An IIO shall ensure that policy issued to the policyholder is in conformity with the advertisements issued on its behalf.

## **19. Policyholders' Protection.**

(1) The provisions of this regulation shall be applicable to every IIO for all their direct insurance businesses.(2) Every IIO and IIIIO shall formulate a policy, duly approved by its Board,for protection of interest of the policyholders;(3) Such policy shall, inter-alia, include the following -(a) steps to be taken for enhancing insurance awareness so as to educate policyholders about insurance products, benefits and their rights and responsibilities;(b) provisions to ensure that IIO and IIIIO, fulfil their obligations towards policyholders;(c) steps to be taken to prevent mis-selling and unfair business practices at point of sale and service;(d) steps to be taken to ensure that during policy solicitation and sale stages, the prospects are fully informed and made aware of the benefits of the product being sold vis-a-vis the product features and the terms and conditions of the product, so that the benefits / returns of the product are not mis-stated / mis-represented;(e) service parameters including turnaround times for various services rendered;(f) policyholder-centric governance by the IIO with emphasis on grievance redressal and to fulfil their obligations towards policyholders;(g) procedure for expeditious resolution of complaints;(h) standard procedures and best practices in the sale and service of insurance policies;(i) simple and transparent claims settlement procedures.(4) Every IIO shall display the service parameters and turnaround times, as approved by its Board, on its website and keep the same updated as and when these are revised by the Board.(5) The approved policy on protection of interest of the policyholders shall be submitted to the Authority, as and when directed by it.Provided that the IIOs, set up in unincorporated form, may adopt Board approved policies of their parent entities, if the standards specified in these regulations are covered thereunder.

## **Chapter V Miscellaneous**

## **20. Reporting and general requirements.**

(1) Every IIO shall furnish information relating to the requirements under these regulations to the Authority or policyholders in such manner, interval and forms as may be specified by the Authority;(2) Every IIO shall be guided by norms of fairness to the policyholder, international best practices and transparency to build trust in the insurance mechanism and to build insurance awareness and insurance literacy.

## **21. Power to specify procedure, etc.**

For the purpose of implementation of these regulations and matters incidental thereto, the Authority may specify norms, procedures, processes and manners for compliance by the IIOs or IIIOs, as the case may be.

## **22. 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.

## **23. Non-applicability of certain regulations and savings.**

(1) On and from the commencement of these regulations, following regulations, circulars or guidelines issued thereunder shall cease to apply in International Financial Services Centres.(i) the Insurance Regulatory and Development Authority (Distributions of Surplus) Regulations, 2002;(ii) the Insurance Regulatory and Development Authority (Scheme of Amalgamation and Transfer of General Insurance Business) Regulations, 2011;(iii) the Insurance Regulatory and Development Authority (Sharing of Confidential Information Concerning Domestic or Foreign Entity) Regulations, 2012;(iv) the Insurance Regulatory and Development Authority (Scheme of Amalgamation and Transfer of Life Insurance Business) Regulations, 2013;(v) the Insurance Regulatory and Development Authority of India (Places of Business) Regulations, 2015;(vi) the Insurance Regulatory and Development Authority of India (Issuance of Capital by Indian Insurance Companies transacting Life insurance business) Regulations, 2015;(vii) the Insurance Regulatory and Development Authority of India (Issuance of Capital by Indian Insurance Companies transacting other than Life Insurance Business) Regulations, 2015;(viii) the Insurance Regulatory and Development Authority of India (Minimum Limits for Annuities and other Benefits) Regulations, 2015;(ix) the Insurance Regulatory and Development Authority of India (Acquisition of Surrender and Paid up values) Regulations, 2015;(x) the Insurance Regulatory and Development Authority of India (Protection of Policyholders' Interests) Regulations, 2017;(xi) the Insurance Regulatory and Development Authority of India (Outsourcing of Activities by Indian Insurers)



Regulations, 2017;(xii) the Insurance Regulatory and Development Authority of India (Insurance Advertisements and Disclosure) Regulations, 2021;(xiii) the Insurance Regulatory and Development Authority of India (Manner of Assessment of Compensation to Shareholders or Members on Amalgamation) Regulations, 2021(xiv) the Insurance Regulatory and Development Authority of India (Other Forms of Capital) Regulations, 2022;(xv) the Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers transacting life insurance business) Regulations, 2023;(xvi) the Insurance Regulatory and Development Authority of India (Expenses of Management of Insurers transacting General or Health Insurance Business) Regulations, 2023;(xvii) the Insurance Regulatory and Development Authority of India (Payment of Commission) Regulations, 2023.(2) Notwithstanding anything contained in sub-regulation (1), anything done or any action taken or purported to have been done or taken under the regulations, circulars or guidelines mentioned in sub regulation (1), before the commencement of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations;(3) An IIO or IIIO, as the case may be, operating in International Financial Services Centre prior to the commencement of these regulations, shall comply with the additional requirements specified in these regulations, if any, within a period of three months from the of commencement of these regulations or within such extended period as may be specified by the Authority.