

Guidelines

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IRDAI (International Financial Service Centre) Guidelines, 2015

In exercise of the powers conferred by Insurance Regulatory Development Authority of India (Regulation of Insurance Business in Special Economic Zone) Rules, 2015 read with Section 18 (2) of SEZ Act, 2005, the Authority hereby makes the following Guidelines:-

1. Short title and commencement.

(1) These Guidelines may be called Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015.

(2) These Guidelines shall come into force with immediate effect.

2. Definitions.-In these Guidelines, unless the context otherwise requires;

(1) “Act” means the Insurance Act, 1938 (4 of 1938)

(2) “Applicant” means an Insurer granted certificate of registration by the Authority or any insurer registered with a foreign regulatory or supervisory Authority.

(3) “Authority” means “the Insurance Regulatory and Development Authority of India” established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority, 1999;

(4) “Certificate” means a certificate of registration granted by the Authority under these Guidelines;

(5) “DTA” means the Domestic Tariff Area as defined under the Special Economic Zones Act, 2005.

(6) “IFSC Insurance Office” (herein after referred to as ‘IIO’) means an office of applicant registered with the Authority under these Guidelines to transact Reinsurance business and/or specified direct insurance business;

(7) “Special Economic Zone” (SEZ):means the Special Economic zone established under the Special Economic Zones Act, 2005

(8) All words and expressions used herein and not defined in but defined in the Insurance Act, 1938 or in the Insurance Regulatory and Development Authority Act, 1999, Special Economic Zones Act, 2005, Central Government (Special Economic Zones) Rules, 2005 or Insurance Regulatory and Development Authority of India (Regulation of Insurance Business in Special Economic Zone) Rules, 2015 shall have the meanings respectively assigned to them in the those Acts and Rules;

Chapter I

Reinsurance Business

3. An applicant meeting the eligibility criteria under clause 4 of these guidelines may establish an IFSC Insurance Office (IIO) in the SEZ to carry on Reinsurance business.

4. Eligibility Criteria

(1) All Indian insurers are eligible to set up IIO. Such applicants shall make an application to the Authority in Form as may be prescribed by the Authority.

(2) An Insurer registered with a foreign Regulatory or Supervisory Authority seeking to set up IIO in a SEZ, shall be eligible based on the following criteria:

- a. The Applicant is registered or licensed for doing Insurance or Reinsurance business in the country of incorporation;
- b. The Applicant has been duly authorized by the Regulatory or Supervisory Authority of that country to set up such office;
- c. The Applicant has been in continuous operation during the preceding 5 years from the year in which the application is made;
- d. The Applicant has net owned funds as specified in the Act;
- e. The Applicant has satisfactory track record in respect of regulatory or supervisory compliance.

Provided that the applicant whose application for registration has been rejected by the Authority, shall become eligible only after a period of two years from such date of rejection.

f. An Applicant fulfilling the above criteria shall submit an application to the Authority in the form prescribed by the Authority;

5. Application for registration: Every application for registration shall be accompanied by:

- (a) a certificate of approval from the appropriate authority as prescribed in SEZ Act for conducting insurance business in the SEZ;
- (b) a copy of the registration certificate issued by the respective Regulatory or Supervisory Authority,
- (c) copy of the document(s) establishing incorporation of the entity under the laws of the respective country or a deed of covenant or any other document which is considered as valid proof of its existence;
- (d) approval from the Board of Directors of the Applicant through a resolution in support of the commitment to set up such IIO.
- (e) a note on the regulatory architecture of the country where the Insurer or Re-insurer is incorporated and licensed along-with its reporting and compliance structure;
- (f) the name, address and the occupation of the Directors and CEO;
- (g) projected business for next 5 years;
- (h) evidence of the payment of non-refundable fee of rupees Rs. 50,000/-.
- (i) a certificate from a practising Chartered Accountant of India or a practising Company Secretary of India certifying that all the requirements of the Act read with notifications issued under section 2CA of the Act have been complied with by the applicant; and
- (j) published annual reports for the last 5 years;

Nothing in this clause shall prevent the Authority from seeking further information as may be needed for the processing of the application for registration.

6. Consideration of application for registration:

- (1) The Authority shall take into account, for considering grant of certificate of registration, all matters relating to carrying on the business of reinsurance by the applicant.
- (2) In particular and without prejudice, the Authority shall consider the following matters for grant of certificate of registration to the applicant, namely:
 - (a) the record of performance of Insurance and Re-insurance business carried on by the Applicant;
 - (b) the record of performance of the directors and persons in the management of the Applicant;
 - (c) the capital structure of the Applicant;

- (d) the planned infrastructure of the Applicant to effectively carry out the insurance business in SEZ;
- (e) the organisation structure of the Applicant; and
- (f) other relevant matters in consonance with the provisions of these Guidelines.

(3) The Authority on being satisfied that:-

- (a) the application is complete in all respects and is accompanied by all documents required therein;
- (b) all information given is correct; and
- (c) the applicant

- i. is a bona fide applicant for registration;

- ii. the financial condition and the general character of management of the applicant are sound and;

- iii. the applicant is eligible, and in its opinion, is likely to meet effectively its obligations imposed under the Act as well as under the SEZ Act, 2005

may accept the application subject to compliance with clause 9 of these Guidelines.

(4) If the Authority, after, considering matters referred to in sub clause (1) and (2) above is satisfied that it is not desirable to grant a certificate of registration, it may, through an order to be communicated in writing to the applicant, reject the application after giving the applicant a reasonable opportunity of being heard.

Provided that the reasons for rejecting the application are also to be recorded therein

7. Grant of Certificate of Registration: The Authority, after being satisfied of the fulfilment of norms as stipulated in Clause 13 may register the applicant as an IFSC Insurance Office (IIO) in SEZ for the class of business for which the applicant is found suitable and grant him a certificate in form prescribed.

Nothing here shall prevent the Authority to reject such certificate of registration provided it is observed that the applicant has misrepresented the facts or failed to fulfil the requirements as stipulated in the Act, rules, regulations and guidelines and the SEZ Act, 2005

8. Scope of Operations: Such IIO granted certificate of registration under clause 7 of these guidelines are permitted to

(a) accept reinsurance business of all classes of business within the SEZ and from outside the country

(b) accept re-insurance business from the insurers operating in the DTA in accordance with the IRDAI Regulations on reinsurance.

Provided that the IIO may retrocede upto 90% of its reinsurance business. The surplus available after such retrocession arrangements shall be held in the form of Government Securities issued by Govt. of India or in deposits with Scheduled banks in India.

9. Time Limit: An applicant granted a certificate of registration under these Guidelines shall commence operations within 6 months of the date of grant of certificate of registration.

Provided, however, that if the IIO is not able to commence the insurance business within the specified period of 6 months, it can before the time limit expires, but atleast 30 days in advance, seek an extension, by a proper written application to the Authority.

Provided further that no extension of time shall be granted by the Authority beyond 12 months from the date of grant of certificate of registration under clause 7 of these guidelines.

10. Assigned Capital: The applicant on receipt of communication from the Authority under Clause 6(3) shall demonstrate an assigned capital of Rs. 10 crore. Such capital may be held in the form of Government Securities issued by the Govt of India or held as deposits with Scheduled Banks in India and shall be maintained at all times during the subsistence and validity of its registration under these guidelines.

Provided that the requirement of such assigned capital is applicable to applicants specified in clause 4(2).

Chapter II

Direct Insurance Business in SEZ

11. (1) An applicant being an Indian Insurer may (except a statutory body) also establish an IIO to transact specified Direct Insurance Business within the SEZ. However, the same IIO granted Certificate of Registration under clause 7 may also transact specified Direct Insurance Business.
- (2) Such IIO may also underwrite specified direct insurance business of foreign jurisdictions.
- (3) The IIO shall make an application in form prescribed for underwriting direct business.
- (4) Such IIO shall not write direct insurance business in the DTA except in accordance with Section 2 CA of the Act.

Chapter III

Terms, conditions and requirements of Certificate of Registration

12. Terms and Conditions

Notwithstanding anything stated herein, the following terms and conditions shall govern the approval of the IIO operations in SEZ:

- (1) Initial and further augmentation of capital and liabilities met out of the Shareholder's funds beyond solvency margin requirement;
- (2) Compliance with Know your Customer (KYC) and Anti-Money Laundering (AML) guidelines issued by the Authority;
- (3) Compliance with Foreign Exchange Management Act, 1999 and any other law in force governing the operations of such offices;

13. Reporting requirements

(1) Notwithstanding anything contained in the Insurance Act, 1938, the Board of the applicant shall review the reports of the IIO in the SEZ on a regular basis, specifically covering the following:

- (a) Financial reporting covering statement of account giving details of activities;
- (b) Business reporting;

(2) The Insurer registered with a foreign Regulatory or Supervisory Authority or an Indian Insurer as the case may be shall immediately report to the Authority any regulatory or supervisory action taken by the home country regulator with full details and the penalty, any administrative action imposed and the remedial steps taken.

(3) The IIO shall submit periodic returns in such form and such manner as the Authority may specify from time to time.

14. Annual fee: The IIO shall be liable to pay annual fee of Rs. 1,00,000/-. Such fees shall be remitted by 31st December of the preceding financial year.

15. Manner of payment of Fees: The fee shall be remitted by online banking/ RTGS/ NEFT/ or through any other recognised electronic mode / Demand draft issued by any scheduled bank in favour of the Insurance Regulatory and Development Authority of India.

16. Further powers of the Authority

(1) The Authority shall have the right to call, inspect or investigate any document, record or communication of the IIO.

(2) Closure of operation of any IFSC Insurance Office (IIO) in a SEZ shall be with the prior approval of the Authority.

(3) Notwithstanding the above, where the Authority is of the opinion that the operations of an IIO are not in public interest, the Authority reserve the right to direct the Insurer to close the office in SEZ after giving adequate opportunity of being heard to the IIO.

Chapter IV

Miscellaneous Provisions

17. IIO shall follow the terms and conditions for underwriting the business of insurance and reinsurance within the overall scope of Insurance Regulatory and Development Authority of India (Regulation of Insurance Business in Special Economic Zone) Rules, 2015 notified by Central Government.

18. Applicability of the provisions of Insurance Act, 1938

i. IIO is regulated under provisions of Insurance Act, 1938 read with notifications issued by the Central Government under Section 2CA of the Insurance Act, 1938.

ii. All IIOs shall comply with the provisions of Insurance Act, 1938, IRDA Act 1999, SEZ Act 2005, rules, regulations, guidelines and circulars made there under save as expressly otherwise provided in the aforesaid notifications and the guidelines in this behalf.