

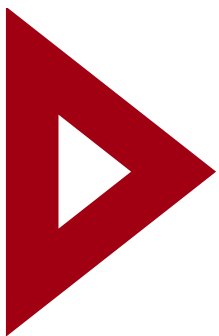
January, 2020

THE INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY ACT, 2019

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Legal Intelligence Series



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INTRODUCTION

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IFSC AUTHORITY FUND

PERFORMANCE REVIEW COMMITTEE

REMARKS

The Finance Minister of India Ms. Nirmala Sitharaman on 25th November, 2019, introduced the **International Financial Services Centres Authority Bill** in the Lok Sabha.

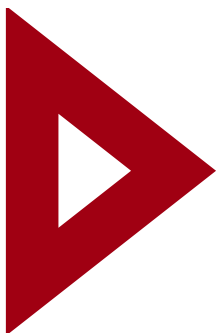
It was passed in the lower house on 11th December, in Rajya Sabha on 12th December, 2019 and received the President assent on 19th December, 2019.

The Act provides for the establishment of a unified Authority to develop and regulate the financial services market in the International Financial Services Centres (**IFSCs**) in India.

The Financial centres that cater to customers outside their own jurisdiction are referred to as **International Financial Centers (IFCs)**.

All these centres are 'international' in the sense that they deal with the flow of finance and financial products/services across borders.

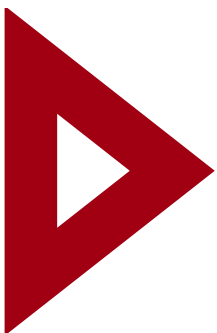
The first IFSC in India was only introduced in the 2015 Budget, to be set up at GIFT City, Gandhinagar.



The Act shall bring about a *single governing authority* which will regulate and also develop the various financial services market in the International Financial Service Centres which are set up in India.

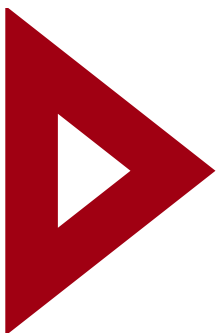
Section 4 of the sanctioned Act provides for establishment of such regulatory authority and states that -

- An authority named International Financial Services Centres Authority to be established by Central Government.
- The Authority shall be a body corporate having perpetual succession and a common seal, and subject to the provisions of this Act, with power to enter into and execute contracts, acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.
- The head office of the Authority to be decided by notification by the Central Government.
- The offices to be established at other places in or outside India with the prior approval of Central Government.



Section 5 of the Act lays down the composition of the Authority, which will consist of 9 members appointed by the Central Government. The following members shall be appointed:

- **1 Chairperson**
- **1 member** nominated each by-
 - i) The Reserve Bank of India, *ex-officio*,
 - ii) The Securities and Exchange Board of India, *ex-officio*,
 - iii) The Insurance Regulatory and Development Authority of India, *ex-officio*,
 - iv) The Pension Fund Regulatory and Development Authority, *ex-officio*,
- **2 members** from the ministry dealing with Finance, *ex-officio*;
- **2 members** on recommendation of a Selection Committee.



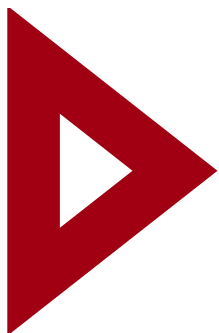
The ***Selection Committee*** as stated above shall also be constituted by the Central Government in a manner prescribed by them.

The Chairperson elected shall be full time member of the Authority.

The Chairperson and a member shall hold office for a term of three years from the date on which he enters upon his office.

Section 7 of the Act mentions the circumstances where a member can be removed from the office by Central Government.

Section 10 of the Act, gives powers of general superintendence and direction in respect of all administrative matters of the Authority, to the Chairperson.



The primary obligation of the *International Financial Service Centre Authority* would be to regulate **financial products** (such as securities, deposits or contracts of insurance), **financial services**, and **financial institutions** which have been previously approved by any appropriate regulator (such as RBI or SEBI), in an IFSC.

It will follow all processes which are applicable to such financial products, financial services, and financial institutions under their respective laws.

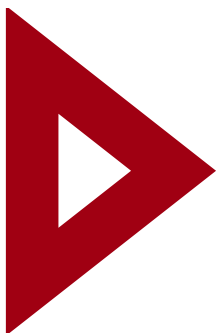
The appropriate regulators are listed in the *First Schedule* of the Act and include:-

- *Reserve Bank of India (RBI),*
- *Securities and Exchange Board of India (SEBI),*
- *Insurance Regulatory and Development Authority of India (IRDAI), and*
- *Pension Fund Regulatory and Development Authority (PFRDA).*

The Central Government may amend the Regulators included in the First Schedule by notification.

Further, **the additional functions and powers of** the Authority are listed down in the **Section 12(2)** of the Act-

- the Financial products, Financial services and Financial institutions in any **IFSC's** to be regulated which have been permitted, by any regulator;
- other Financial products, Financial services or Financial institutions in the **IFSC's** to be regulated by the Authority as may be notified by the Central Government;
- the Authority may also recommend to the Central Government, such other financial products, financial services and financial institutions which may be permitted in an **IFSC**;
- perform such other functions as may be prescribed.



The Act, by virtue of **Section 15**, has also provided for establishment of an **International Financial Services Centres Authority Fund** where the Central Government shall, after due allocation by the Parliament, make grants of sums of money which it deems fit.

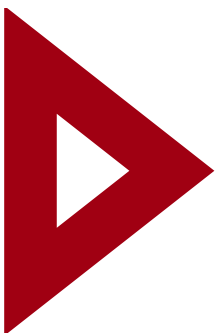
The following particulars shall be credited to the said **fund** :-

- all grants, fees and charges received by the Authority;
- all sums received by the Authority from various sources as decided by the Central Government.

The credited funds shall be utilised in a specific manner and the purpose of which has been defined under **Section 15(2)** :-

- the salaries, allowances and other remuneration of Members, officers and other employees of the Authority; and
- other expenses incurred by the Authority in connection with the discharge of its functions and for the purposes of this Act.

The **Comptroller and Auditor-General** of India shall audit the accounts of the Authority and the audit report has to be submitted annually to the Central Government which will present it to both the House of Parliament.

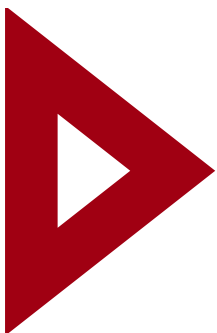


The Act lays down a **Performance Review Committee** to review the functioning of the Authority. This review committee shall consist of minimum **2 members** of the Authority.

Under **Section 17(1)** of the Act, the committee will **review the functioning** of the Authority and check if-

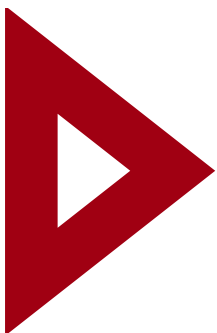
- the Authority has followed the applicable laws while exercising powers or performing functions under the Act;
- the regulations made by the Authority under the Act promote transparency and best practices of governance;
- the Authority is managing risks to its functioning in a reasonable manner.

The Constituent Committee shall review the functioning at least once in every financial year and submit its report of the findings to the Authority.



Under **Section 17(3)**, a system has to be maintained by the Performance Review Committee, wherein information can be submitted by any person to the Committee relating to:

- non-adherence of applicable laws by the authority,
- misappropriation of resources by the Authority,
- abuse of power by any member or employee of the Authority,
- non-compliance of the decision of Authority by any member or employee.

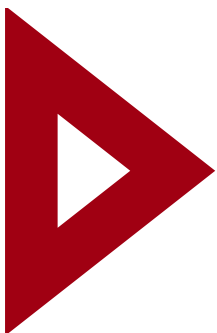


The banking, capital markets and insurance sectors in IFSC in the present scenario are regulated by multiple regulators i.e. RBI, SEBI, IRDAI, etc.

The ongoing robust and dynamic nature of business in the International Financial Services Centres has necessitated a high degree of inter-regulatory coordination.

Provided the nature of the business, the existing regulations governing the financial activities in IFSCs need regular clarifications and amendments.

The establishment of a unified financial regulator for **IFSCs** will result in providing a world-class regulatory environment to market participants from the perspective of *Ease of Doing Business*.



ABOUT US

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