

International Financial Services Centres Authority (Aircraft Leasing) Regulations

December 16, 2020

INTRODUCTION

On 16.12.2020, the International Financial Services Centres Authority (IFSCA) released a consultation paper on the proposed aircraft leasing regulations for public comments.

The Government of India, on 16.10.2020 had notified the 'Aircraft lease' which includes operating and financial lease of aircraft or helicopter and their engines as a financial product under International Financial Services Centres Authority Act, 2019.

BACKGROUND

In the Union budget 2019-2020 the Finance Minister, had stressed on India's entry into the aircraft financial and leasing sector. This move is considered crucial for the development of self-reliant aviation industry which shall lead to creating inspirational jobs in aviation finance, besides leveraging the business opportunities available in India's Financial Special Economic Zone/ IFSC.

Earlier in January 2019, the Ministry of Civil Aviation published a report, 'Project Rupee Raftar' that provided a roadmap to developing an aircraft financing and leasing industry in India. This report identified IFSC city for developing aircraft leasing and financing eco-system in the country. Given the relatively new concept of aircraft leasing in India and the difference between aircraft leasing regulations across various financial centres, IFSCA has prepared the draft regulations for aircraft leasing in order to get inputs from stakeholders as well as public comments.

Key Takeaways

The Regulations have been come to known as International Financial Services Centres Authority (Aircraft Leasing) Regulations (**Draft Regulations**). As of now it has a total of five chapter and 14 sections that constitute the current Regulations. The key points of these Draft Regulations are discussed below:

1. **Registration of Lessor:** A "Lessor" has been defined as '*the party furnishing the aircraft or helicopter and engines of aircraft or helicopter or any other part thereof under an Aircraft Lease*'. Under the Draft Regulations, a Certificate of registration is required to be obtained from IFSC Authority in order to act as a Lessor. The application is required to be made in this regard in a form and manner specified by the Authority.

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

If the Authority is satisfied, after making enquiry as may be necessary in this behalf and after obtaining further information as it may require, that the eligibility criteria is met by the applicant entity, it may grant registration to such applicant to operate as a Lessor in IFSC, subject to such conditions as may be specified. Also, the Authority shall not reject an application without giving due opportunity to be heard to the applicant, and the reasons for such rejection shall be communicated to the applicant entity in writing.

3. **Additional capital requirement:** The Lessor shall, at all times, maintain a minimum total capital (initial and additional), based on the value of its assets, determined at the start of the relevant financial year (in the case of first year of operations, within 30 days of incorporation of the entity) as per scales prescribed.
4. **Functioning of Lessor:** A Lessor may also include a bank, a non-banking finance company, a leasing finance company or an operating lessor and other entities as specified by the IFSC Authority. A Lessor may conduct its business in the IFSC in any mode as permitted by the IFSC Authority, including through a subsidiary or a special purpose vehicle or LLP.
5. **Permissible services and activities:** A Lessor shall undertake the activities with respect to aircraft leasing, including, but not limited to the following:
 - (i) aircraft leasing, which shall include operating or financial lease or hybrid of operating and financial lease, of aircraft or helicopter and engines of aircraft or helicopter or any other part thereof;
 - (ii) sale and lease back, novation, transfer, assignment, securitisation and such related transactions in relation to aircraft, helicopters, engines or any other part thereof;
 - (iii) any other financing, leasing and such related transactions in relation to aircrafts, helicopters, engines or any other part thereof.
6. **Currency for conducting business:** A Lessor shall deal in freely convertible foreign currency only.

Please find link to Draft Regulations [here](#)