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Unlocking Global Finance in IFSC, Gift City: RBI's LRS Notification

AASTHA SHETH[1]

ABSTRACT

Integration of Financial markets across different countries and the growing financial interdependence among them refers to financial globalization and in today's era of financial globalization, India's establishment of its own International Financial Service Centre (IFSC) represents a significant development. As one of the world's largest and fastest-growing economies, India recognized the necessity of creating a financial center to boost domestic economic growth, enhance liquidity, expand the labor pool, and import international financial services. International Financial Service Center Authority (IFSCA) is a primary regulator of IFSC in India. Consequently, India's first IFSC was set up in Gujarat International Finance Tech-City (GIFT), opening the doors to numerous international financial institutions and transactions. The Reserve Bank of India (RBI), a key regulator of IFSC in GIFT City, has implemented various changes through notifications and circulars. The most recent change permits resident individuals to facilitate remittances under the Liberalized Remittance Scheme (LRS) in GIFT IFSCs. These remittances enhance liquidity in the IFSC ecosystem and contribute to economic growth. Liberalized remittance scheme was introduced in 2004, way before IFSC was set up in India, accelerating foreign exchange in India especially for Indian resident individuals. Foreign Exchange Management Act, 1999 stated all permitted and prohibited transactions to facilitate foreign exchange which is also applicable for remittances under LRS.

In recent years, GIFT IFSC has made substantial progress in promoting the free flow of finance and ease of doing business. However, it had not fully benefited Indian residents until the recent permission for remittances directly through the LRS in the IFSC. This allows Indian residents to fully engage with GIFT IFSC. This paper delves more into the recent RBI notification under the LRS to GIFT IFSC, providing a brief overview of the IFSC, GIFT City, the LRS regime, and the transformative impact of the RBI's new notification.

I. INTRODUCTION

India's pathway to economic transformation has been characterized by various milestones that

[1] Author is a Student at KES' Shri. Jayantilal H. Patel Law College, Mumbai, India.

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have reshaped its position on the global stage. Liberalization of the economy has made foreign exchange more accessible, majorly impacting the Indian diaspora, which has emerged as a formidable force in international finance through its contributions to the Indian economy, becoming one of the key reasons to ignite the need of home-based financial hub. India's ambition to establish a leading global financial hub was well accomplished through the development of IFSC in GIFT City widely promoting and placing Indian financial markets on the global platform and onshoring the offshore i.e. bringing back all financial service transactions to Indian shores. After foreign exchange started sharing its mind space in 2000s, to facilitate smoothly government introduced Liberalized remittance scheme, classifying which transactions permits remittances for Indian resident individuals managing foreign exchange and capping the remittance limit to avoid harm to economy.

Even though India's been a late entrant in developing its financial center due to globalization crisis and liberalization norms emerging in late 1990s, its rapid development is an effort to be on par with other global financial centers, especially the recent RBI notification marks advancement in India's integration into the global financial system and simplifies international transactions for Indian residents' individuals.

II. WHAT IS IFSC

International Financial Service Centre ("IFSCs") deals with the flow of finance, financial products and services across the borders. It is a gateway to foreign capital in India and massive inward remittance benefits for residents Indians along with the acceleration of financial globalization and socio-economic growth. Earlier, India used to export all its foreign financial services to financial centers around the globe, as being of one the largest economy in the world, that became key factor to set up its own IFSC and to onset importing of financial services in Indian shores. IFSC is situated in the Special Economic Zone ("SEZ") and is defined under the Special Economic Zone Act, 2005 as an International Financial Service Centre which has been approved by the Central Government of India.

In India, the IFSC is governed by '**The International Financial Service Centre Act, 2019' and regulated by the International Financial Service Centre Authority ("IFSCA")**. Before IFSC, foreign transactions were regulated by different regulating bodies separately. To avoid the muddle of being regulated by different bodies, IFSCA became the primary regulator of the IFSC that **combines powers exercisable by RBI, SEBI, IRDAI, and PFRDA**. In 2021, IFSCA became an associate member of the International Organization of Securities Commissions (IOSCO).

IFSC not only caters to overseas banking activities but also deals in a variety of other financial services like wealth management, trade finance, insurance, assets management, and capital markets with minimum interference of RBI including global tax management and cross-border tax liability optimization.

Foreign investors can set up operations in IFSC to invest in India seamlessly, without having to comply with the stringent foreign exchange controls otherwise applicable, on the other hand, **regulated Indian fintech entities can also set up units to attract foreign capital developing an unprecedented opportunity for their business.**

As per Foreign Exchange Management (IFSC) Regulations, 2015[2], Regulation 3, any financial institution or branch of a financial institution set up in the IFSC and permitted/ recognized by the Government of India or a Regulatory Authority shall be treated as a person resident outside India.[3]

A bank account in IFSC will be treated as a bank account outside India. IFSC Banking Units ("IBUs") can open foreign currency accounts ("FCAs") of units operating in IFSCs and of non-resident institutional investors to facilitate their investment transactions.[4]

III. IFSC AT GIFT CITY

Gujarat International Finance Tech-city ("GIFT") located in the SEZ of Gandhinagar city, State of Gujarat is India's first and only International Financial Services Centre. A home to the international and domestic financial sector was initially proposed by Shri. Narendra Modi, Chief Minister of Gujarat at the time. The State of Gujarat is recognized as a potential center for the finance service industry as it is one of the fastest growing regions in India, owing to its labor pool and unearthed talent.

Gift City developed as a global financial services hub with 886 acres of land and commenced its business in April 2015. GIFT IFSC provides a strategic location to develop an efficient platform for all inbound and outbound foreign currency transactions.

GIFT IFSC provides the competitive cost of operations with an advantageous tax regime, single window clearance, relaxed company law provisions, and international arbitration center with overall facilitation of doing business along with providing advanced or emerging financial

[2] RBI Notification no. FEMA. 339/2015-RB dated March 02, 2015.
[3] GIFT City official website, frequently asked questions, https://www.giftsez.com/documents/FAQ's-for-remittances-to-IFSC-in-India-under-LRS.pdf ,(last visited on July 30, 2024).
[4]Reserve Bank of India circular, DBR.IBD.BC.14570/23.13.004/2014-15 dated April 1, 2015, as amended and updated from time to time/ https://www.giftsez.com/documents/RBI-FAQs-for-IFSC-March-01-2019.pdf ,(last visited on July 30, 2024).

technology solutions in allied areas about financial products, financial services, and financial institutions.

Tremendous Tax Benefits-

a) Tax holiday for 10 consecutive years out of a block of 15 years in respect of income from a business carried on in IFSC;

b) Minimum Alternate Tax (MAT)/ Alternate Minimum Tax (AMT) – 9% (MAT not applicable to companies in IFSC opting for new tax regime);

c) Tax on capital gains on Specified securities listed on IFSC exchanges by a non-resident or category III Alternate Investment Funds (AIFs) located in IFSC – NIL;

d) GST on services (a) received by the unit in IFSC; and (b) provided to IFSC/ SEZ units or Offshore clients – NIL;

e) Security Transaction Tax (STT), Commodity Transaction Tax (CTT), Stamp Duty in respect of transactions carried out on IFSC exchanges – NIL;

f) Tax on interest paid by IFSC units to non-residents – NIL;

g) Tax on interest paid to non-residents on Long-term Bonds and Rupee-denominated bonds listed on IFSC exchange – 4%.[5]

In light of the above benefits, several domestic banks moved their international operations to the IBUs to benefit from various fiscal and non-fiscal advantages, while staying close to their headquarters and maintaining an international presence.

Several noteworthy regulations have been introduced through the primary regulator IFSCA in various sectors such as in the capital market "The IFSCA (Capital Market Intermediaries) Regulations, 2021" enables both domestic and international entities to register as capital market intermediaries by either establishing a branch in the IFSC, setting up a corporation, partnership firm, or proprietorship there and allows brokers and dealers to access global stock exchanges[6], "The IFSCA (Issuance and Listing of Securities) Regulations, 2021" allows Indian and foreign issuers the issue both equity and debt securities on IFSC's recognized stock exchanges[7]. "The

[5] GIFT city official website, https://www.giftgujarat.in/business/ifsc?tab=Tax+Incentives, (last visited on July 30, 2024).
[6] The IFSCA (Capital Market Intermediaries) Regulations, 2021, https://ifsca.gov.in/Document/Legal/ifsca-capital-market-intermediaries-regulations-2021-as-amended-up-to-july-3-202320072023040848.pdf (last visited July 30, 2024).
[7] The IFSCA (Issuance and Listing of Securities) Regulations, 2021, https://ifsca.gov.in/web/viewer.html?file=/Document/Legal/ifsca-issuance-and-listing-of-securities-regulations-202120072021054301.pdf ,(last visited July 30, 2024).

IFSCA (Finance Company) Regulations, 2021" provides a detailed set of regulations for finance companies and finance units to be set up in IFSCs[8]. "The IFSCA (Banking) Regulations, 2020" permits Indian banks and Foreign banks to set up a Banking Unit in IFSC with permissible activities of conducting business in specified foreign currency[9].

IV. LIBERALIZED REMITTANCE SCHEME

India has significantly liberalized foreign exchange transactions for its residents. Before 2004, transferring money overseas required numerous approvals from the Reserve Bank of India ("RBI"), making the process cumbersome. Therefore, the government of India enforced the "Liberalized Remittance Scheme" to ease overseas remittances for **resident[10] individuals** and avoid illegal overseas transactions making it hassle-free for foreign exchange. In terms of money, a remittance is the sending of money to a recipient who is not a resident in India/ Overseas Indians or lives abroad.

What is the Liberalized Remittance Scheme (LRS)[11]?

Under the Liberalized Remittance Scheme, **all resident individuals**, including minors, are allowed to freely remit up to **USD 2,50,000** [12] per financial year (April – March) for any permissible current or capital account transaction or a combination of both.[13]

[8] The IFSCA (Finance Company) Regulations, 2021, https://ifsca.gov.in/Document/Legal/ifsca-finance-company-regulations-as-amended-upto-july-1-202214102022061351.pdf. ,(last visited July 30, 2024).
[9] The IFSCA (Banking) Regulations, 2020, https://ifsca.gov.in/Viewer?Path=Document%2FLegal%2Fconsolidated-ifsca-banking-regulations-as-on-july-14-202314082023111415.pdf&Title=Consolidated%20IFSCA%20%28Banking%29%20Regulations&Date=14%2F08%2F2023,(last visited July 30, 2024).
[10] A 'person resident in India' is defined in Section 2(v) of FEMA, 1999 as :
(i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include-
(A) a person who has gone out of India or who stays outside India, in either case-
(a) for or on taking up employment outside India, or
(b) for carrying on outside India a business or vocation outside India, or
(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;
(B) a person who has come to or stays in India, in either case, otherwise than-
(a) for or on taking up employment in India, or
(b) for carrying on in India a business or vocation in India, or
(c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;
(ii) any person or body corporate registered or incorporated in India,
(iii) an office, branch or agency in India owned or controlled by a person resident outside India,
(iv) an office, branch or agency outside India owned or controlled by a person resident in India.
[11] The LRS was introduced on Feb. 4, 2004, vide A.P. (DIR Series) Circular No. 64 read with GoI Notification G.S.R. No.207(E) dated Mar. 23, 2004, by the Reserve Bank of India (RBI).
[12] USD 2,50,000 is determined by prevailing macro and micro economic conditions.
[13] RBI LRS frequently asked questions, https://www.rbi.org.in/commonperson/English/Scripts/FAQs.aspx?Id=1834#Q1, (last visited July 30, 2024).

Resident individuals can avail of foreign exchange facilities for the purposes mentioned in Para 1 of Schedule III of FEM (CAT) Amendment Rules 2015, dated May 26, 2015, within the limit of USD 2,50,000 only. [14]

- If the remitter is a minor, the LRS declaration form must be countersigned by the minor's natural guardian.
- Corporates, partnership firms, HUF, Trusts, etc, cannot avail liberalized remittance scheme.
- The remittances can be made in any freely convertible foreign currency and not necessarily in US dollars.
- All the permitted transactions under LRS should be through an Authorized Person[15] only.
- In simple language, resident individuals can freely acquire and hold immovable property, shares, or other assets outside India without prior approval from the Reserve Bank. They can also open, maintain, and hold foreign currency accounts with banks outside India for making remittances under this scheme without prior Reserve Bank approval subject to certain conditions.

Permitted activities under LRS-

Resident individuals can avail of foreign exchange facility for the following purposes within the LRS limit of USD 2,50,000 on a financial year basis-

A. The Permissible activities under Current Account Transactions[16]:

i. private visits to any country (except Nepal and Bhutan);

ii. gift or donation;

iii. going abroad for employment;

iv. emigration;

v. maintenance of close relatives abroad;

[14] Any additional remittance over the limit of USD 2,50,000 shall require permission from RBI in certain circumstances.

[15] Authorized Persons under section 10 of FEMA, 1999 includes an **authorized dealer, money changer or off-shore banking unit** or any other person to be known as an authorized person to deal in foreign exchange or in foreign securities.

[16] Current account transaction under Section 2 (j) of FEMA, 1999 means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes,— (i) payments due in connection with foreign trade, other current business, services, and short-term banking and credit facilities in the ordinary course of business, (ii) payments due as interest on loans and as net income from investments, (iii) remittances for living expenses of parents, spouse and children residing abroad, and (iv) expenses in connection with foreign travel, education and medical care of parents, spouse and children.

vi. travel for business, or attending a conference or specialized training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as an attendant to a patient going abroad for medical treatment/ check-up;

vii. expenses in connection with medical treatment abroad;

viii. **studies abroad;**

ix. any other current account transaction that is not covered under the definition of current account in the Foreign Exchange Management Act ("FEMA"), 1999. [17]

B. The Permissible activities under Capital Account Transactions[18]:

i. opening of foreign currency account abroad with a bank;

ii. purchase of property abroad;

iii. **making investments abroad**;

iv. setting up wholly owned subsidiaries and Joint Ventures abroad;

v. extending loans including loans in Indian Rupees to Non-resident Indians (NRIs) who are relatives as defined in Companies Act, 2013.[19]

Prohibited Activities under LRS-

LRS is not available for the following:

i. Remittance for any purpose specifically prohibited under Schedule I (like purchase of lottery tickets/ sweep stakes, proscribed magazines, etc.) or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.

ii. Remittance from India for margins or margin calls to overseas exchanges/ overseas counterparty.

iii. Remittances for the purchase of Foreign currency convertible bonds (FCCBs) issued by Indian companies in the overseas secondary market.

[17] Foreign Exchange Management (Current Account Transactions) Rules, 2000 - Notification [GSR No. 381(E)] dated May 3, 2000 and the revised Schedule III to the Rules as given in the Notification G.S.R. 426(E) dated May 26, 2015.

[18]Capital account transaction under Section 2 (e) of FEMA, 1999 means a transaction which alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India or assets or liabilities in India of persons resident outside India, and includes transactions referred to in sub-section (3) of section 6 of FEMA, 1999.

[19] Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000- Notification No. FEMA.1/2000-RB dated May 3, 2000 as amended up to Feb. 27, 2019.

iv. Remittance for trading in foreign exchange abroad.

v. Capital account remittances, directly or indirectly, to countries identified by the Financial Action Task Force (FATF) as "non-cooperative countries and territories", from time to time.

vi. Remittances directly or indirectly to those individuals and entities identified as posing a significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks.

vii. Gifting by a resident to another resident, in foreign currency, for the credit of the latter's foreign currency account held abroad under LRS.[20]

Remittances under LRS to GIFT IFSC for Resident Individuals

India's central bank, the Reserve Bank of India (RBI) through a circular dated February 16, 2021[21] permitted resident individuals to make remittances facilitated through Authorized persons under LRS to GIFT IFSC only for limited purposes[22] read with RBI circulars dated April 26, 2023[23] [24] and June 22, 2023[25] to deepen the financial markets in IFSCs and provide opportunities to diversify Indian residents' portfolios

i) The remittance shall be made only for making investments in IFSCs in securities, other than those issued by entities/ companies' resident (outside IFSC) in India and for 'studies abroad' [26] for payment of fees to foreign universities or institutions in IFSCs for pursuing courses mentioned in the gazette notification no. SO 2374 (E) dated May 23, 2022.[27]

ii) Resident Individuals may open a Foreign Currency Account (FCA)[28] in IFSCs, for making the permissible investments stated above (i) under LRS.

[20] RBI LRS frequently asked questions, https://www.rbi.org.in/commonperson/English/Scripts/FAQs.aspx?Id=1834#Q, (last visited July 30, 2024).
[21] RBI Circular No. RBI/2020-21/99, A.P. (DIR series) Circular No.11 dated February 16, 2021,(last visited July 30, 2024).
[22] Since remittances towards current account transactions like travel, education, gifts and capital account transactions like purchase of immovable property were not relevant with respect to IFSCs in India, remittances were permitted only for making investments in securities issued by the non-resident entities in IFSCs.
[23] RBI Circular No. RBI/2023-24/21, A.P. (DIR Series) Circular No. 03 dated April 26, 2023,(last visited July 30, 2024).
[24] Scenario before modification through RBI circular dated Apr. 26, 2023 was bearing condition that the FCA should be non-interest bearing and the funds lying idle in the account for a period up to 15 days from the date of its receipt in the account shall be immediately repatriated to domestic INR account of the investor in India.
[25] RBI Circular No. RBI/2023-24/45, A.P. (DIR Series) Circular No. 06 dated June 22, 2023,(last visited July 30, 2024).
[26] RBI Circular No. RBI/2023-24/45, A.P. (DIR Series) Circular No. 06 dated June 22, 2023,(last visited July 30, 2024).
[27] Ministry of Finance, Government of India, gazette notification SO 2374 (E) dated May 23, 2022/ https://rbidocs.rbi.org.in/rdocs/content/pdfs/Gazette2374E23052022.pdf, (last visited July 30, 2024).
[28] Modified with effect from Apr. 26, 2023 vide RBI Circular No. RBI/2023-24 A.P. (DIR Series) Circular No.

iii) Resident Individuals shall not settle any domestic transactions with other residents through the FCAs held in IFSC.[29]

V. NEW DEVELOPMENT

RBI Notification dated July 10, 2024 ("The RBI Notification")[30]

RBI via its notification permitted **resident individuals to facilitate remittances** through Authorized persons (mostly Authorized Dealer Category- I banks [31]) for **all permissible purposes** under **LRS** to IFSCs for:

i. Availing financial services or financial products as per the International Financial Services Centres Authority Act, 2019 within IFSCs; and

ii. All current or capital account transactions, in any other foreign jurisdiction (other than IFSCs) through an FCA held in IFSCs.

Impact of RBI Notification dated July 10, 2024

Domestic banks that opened their initial offshore branches at GIFT IFSC were unable to provide a comprehensive range of LRS solutions to their Indian resident individuals due to earlier restrictions in GIFT IFSC. However, the recent RBI notification has streamlined operations, allowing banks to more effectively serve resident individuals through IFSC, GIFT City and it opened doors for resident individuals to participate in several financial services and financial products opportunities within GIFT IFSC and outside India.

This initiative will enhance liquidity in the IFSC ecosystem, boosting its economic growth and employment by allowing FCAs to be opened and managed from the domestic global financial hub at IFSC, GIFT City, and effectually, ushering globalization in India to the next level.

Benefits to Resident Individuals Investors-

- The RBI Notification enhances and diversifies residents' investment portfolios by permitting various financial services and products under LRS in GIFT IFSC.

03 dated April 26, 2023, (last visited July 30, 2024).

[29] RBI Circular dated Jan. 01, 2016, Master Direction No.7/2015-16 on LRS as amended time to time, (last visited July 30, 2024).

[30] RBI Circular No. RBI/2024-25/49 A.P. (DIR Series) Circular No. 15 dated July 10, 2024/ https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12699&Mode=0 ,(last visited July 30, 2024).

[31] Authorized Dealer Category-I Bank means a bank (Scheduled Commercial, State or Urban Cooperative) that is authorized under Section 10(1) of FEMA, 1999 to undertake all current and capital account transactions according to the directions issued by the RBI from time to time.

- Resident individuals can use their Foreign Currency Accounts (FCAs) to undertake international transactions directly from India. It provides residents with direct control over their foreign exchange transactions.
- Resident Individuals can open fixed deposit accounts in foreign currency i.e. dollars in GIFT IFSC, offering **protection against inflation and currency depreciation.**
- Transactions can be carried out through existing Indian banks under LRS in GIFT IFSC withholding trust for such remittances.
- The notification helps reduce currency conversion costs and administrative burdens.
- Indian Resident individuals can hold their funds within the Indian financial system while participating in global financial activities.
- The development is a positive step, especially for High Net Worth Individuals (HNIs) who currently tend to open accounts in Financial Hubs like Dubai and Singapore now can open FCAs in GIFT IFSC.

VI. CONCLUSION

IFSC has expanded its scope tremendously to establish a world-class global fintech hub since 2015, with the already existing LRS regime and the new RBI notification dated July 10, 2024, IFSC takes a step forward for its global and domestic development in the finance sector by facilitating remittances for Indian residents. It's an opportune time to utilize and deepen the roots of IFSC in India as well by availing numerous benefits under LRS in GIFT IFSC.

Though the new notification is a welcome change, GIFT IFSC still has lot of evaluation, assessment and learning left to be on par with the global indexes and other financial centers.

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