

Unified regulator for GIFT City on the cards

RBI also recommends full-fledged arbitration centre

Rajesh Bhayani | Mumbai September 24, 2017 Last Updated at 00:22 IST



The Union finance ministry is finalising norms for a unified regulator for the International Financial Services Centre (IFSC) situated at GIFT City in Gandhinagar, Gujarat, which has clocked \$7 billion of business in banking, insurance, and capital markets so far.

The move is expected to provide a further push to the IFSC. The Reserve Bank of India (RBI) had written a detailed note to the finance ministry to consider one common regulator for banking, insurance, and capital markets with all powers to issue approvals required for

GIFT IFSC can be the ideal venue for conduct of arbitration

doing business in the IFSC.

The finance ministry has taken the RBI's proposal for a unified regulator seriously because of the high potential of the IFSC.

The central bank had also said some of the successful Asian IFSCs such as Hong Kong, Dubai, and Singapore had one regulator for all decision-making, which should be the model applied in India. The proposed name for the regulator is the GIFT Financial Sector Regulatory Authority.

The task force consists of senior officials from different ministries.

The move follows concerns that domestic regulators would consider the domestic implications of the IFSC rules, which ideally should not be the case because the IFSC operated like a foreign country in Indian territory.

The need for a unified regulator was felt recently when the Securities and Exchange Board of India (Sebi) had to approach the finance ministry over allowing foreign portfolio investors (FPIs) to operate in commodity derivatives in the IFSC. FPIs are not allowed in the domestic commodity derivatives market.

Sources said the finance ministry had approved the proposal for allowing FPIs in IFSC. However, the decision-making would have been quicker had there been an independent unified regulator at Gift IFSC. The RBI could face similar challenges as well.

WHAT IS A UNIFIED REGULATOR?



A common regulator for banking, insurance, and capital markets

FOR WHOM?

The International Financial Services Centre, situated at GIFT City in Gandhinagar, which has clocked business worth \$7 billion in banking, insurance, and capital markets, so far

WHAT WILL IT DO?

The regulator will have the power to give approvals required for doing business in the aforementioned sectors

WHY IS IT NEEDED?

Sebi had to approach the finance ministry to allow FPIs to operate in commodity derivatives in the IFSC. Though the approval was granted, a unified regulator would make the decision-making process faster

OTHER UNIFIED REGULATORS

Hong Kong, Dubai, and Singapore have a unified regulator

Nishith Desai, founder, Nishith Desai Associates, a global legal advisory firm, said, “There is a need to have a unified regulator for making the GIFT IFSC successful. It should be free to prepare regulations that can create an ecosystem suitable for global investors.” Desai also said such a regulator should have a global mindset and be able to understand business for quick regulation and faster implementations of proposals.

According to the Global Financial Centres Index (GFCI) developed by two leading think tanks, the Z/Yen Group in London and the China Development Institute in Shenzhen, India’s Gift IFSC figures 10th among international financial centres that have huge potential to grow. Shanghai and Singapore are among the top three, but GIFT IFSC is above New York, Seoul and Luxembourg.

The proposal’s actual implementation may take time as it may have to cross some layers and legal amendments are needed. However, if implemented, business could multiply manifold in a short span of time.

The RBI has also recommended that if decisions on a unified regulator and a full-fledged arbitration centre are delayed, GIFT IFSC will remain a real estate project.

“A unified regulator should also be empowered to take all decisions without any pre-determined parameters, including tax-related issues, with a single-minded focus to attract high-quality players. Its decisions shall follow an open and transparent system and approvals can be non-precedential. There is a need to attract a few showcase investors in each area,” Desai said.

Another proposal of the RBI that is being discussed by the task force is to make the arbitration centre function like a full-fledged one. GIFT IFSC has an agreement with the Singapore International Arbitration Centre (SIAC) and at present only case hearing is conducted locally while case management and passing of awards takes place in Singapore. There are some legal issues which can be addressed if awards are also passed in GIFT IFSC and made enforceable in India under the Indian arbitration law and can also be applicable to overseas investors in GIFT IFSC, which would be similar to the awards issued by SIAC.

“GIFT IFSC can be the ideal venue for conduct of arbitration. There is a need for clarity from the government on how awards passed in GIFT IFSC can be enforced in India and/or in foreign countries in view of the New York Convention,” Desai said.