

Aircraft Leasing in IFSC at GIFT City



International Financial Services Centre



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Establishment of IFSC in India

What is IFSC?

- International Financial Services Centre (IFSC) caters to the customers outside the jurisdiction of domestic economy. Such centers deal with the flow of finance, financial products and services across the borders.
- IFSC as envisaged under the Indian context “is a jurisdiction that provides financial services to non-residents and residents (Institutions), in any currency other than Indian Rupee(INR)”
- IFSC is set-up to undertake financial services transactions that are currently carried on outside India by overseas financial institutions and overseas branches/ subsidiaries of Indian financial institutions

IFSC in India





- In India, an IFSC is approved and regulated by the Government of India under the Special Economic Zones Act, 2005
- Government of India has approved GIFT City as a Multi Services Special Economic Zone ('GIFT SEZ') and has also notified this zone as India's IFSC
- The launch of the IFSC at GIFT City is the first step towards bringing financial services transactions relatable to India, back to Indian shores
- IFSC unit is treated as a non-resident under extant Foreign Exchange Management regulations

Current players and ecosystem in IFSC at GIFT City

Participants	Key business activities and features	Volume and No. of players
International Stock exchanges	<ul style="list-style-type: none"> • Dollar denominated products • No transaction cost (other than brokerage) • Trading - 22 hours • Two International exchanges 	<ul style="list-style-type: none"> • Average daily trading value on IFSC Exchanges USD 4.29 Bn • On March 10, 2021, IFSC Exchange (India INX) derivatives turnover touched a new high of USD 30.30 Bn executing more than 1.5 Mn Contracts.
IFSC Banking units	<ul style="list-style-type: none"> • External Commercial Borrowing (ECB) Lending • Loan syndication and trade finance 	<ul style="list-style-type: none"> • 19 Banks Licensed, Domestic Banks - 13, Foreign Banks - 6 • Total Banking Transactions touched approx. USD 51 Bn (as on Jan 2021) • Total Banking Asset size: USD 14 bn+
Brokers & Intermediaries	<ul style="list-style-type: none"> • Broking services • Proprietary trading 	<ul style="list-style-type: none"> • 100+ brokers, Depository • Clearing corporations, Custodian
Insurers & Intermediaries	<ul style="list-style-type: none"> • Non-life, Reinsurance business • Insurance intermediaries 	<ul style="list-style-type: none"> • 19+ Companies • Sum insured - USD 30 Bn+
Ancillary services	<ul style="list-style-type: none"> • Legal, Accounting, Bookkeeping and Taxation Services, • Management Consulting Services, • Assets Management Support Services and Trusteeship Services 	<ul style="list-style-type: none"> • 32 entites

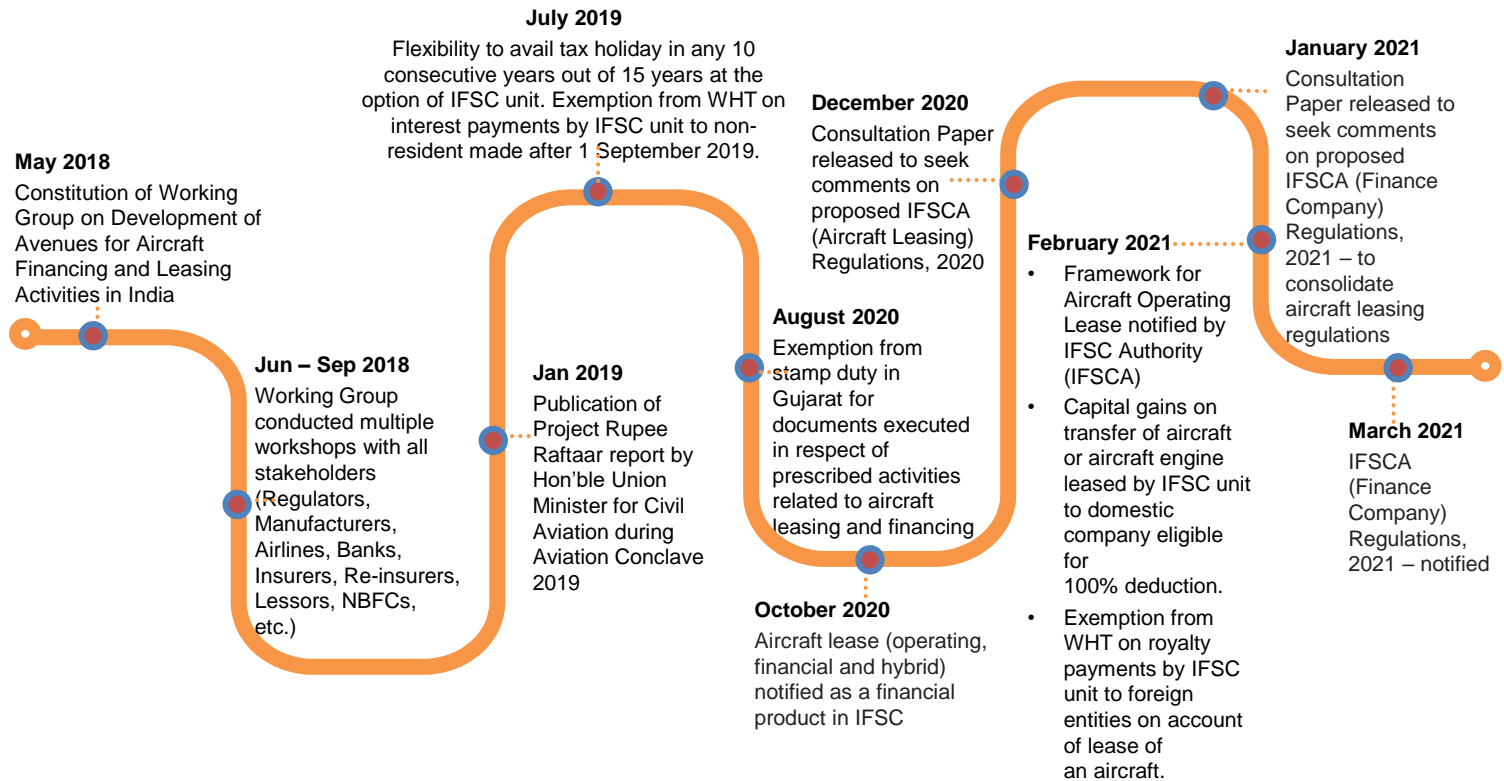
Aircraft Leasing in IFSC

Key statistics

-  Fleet Size in India: 710 (Pre-covid numbers)
-  Number of Airline operators in India: 9
-  Estimated Growth in Fleet Size (Y-o-Y): 8-9%
-  Airline Leasing Companies set-up in IFSC: 13 (as on March 2022)

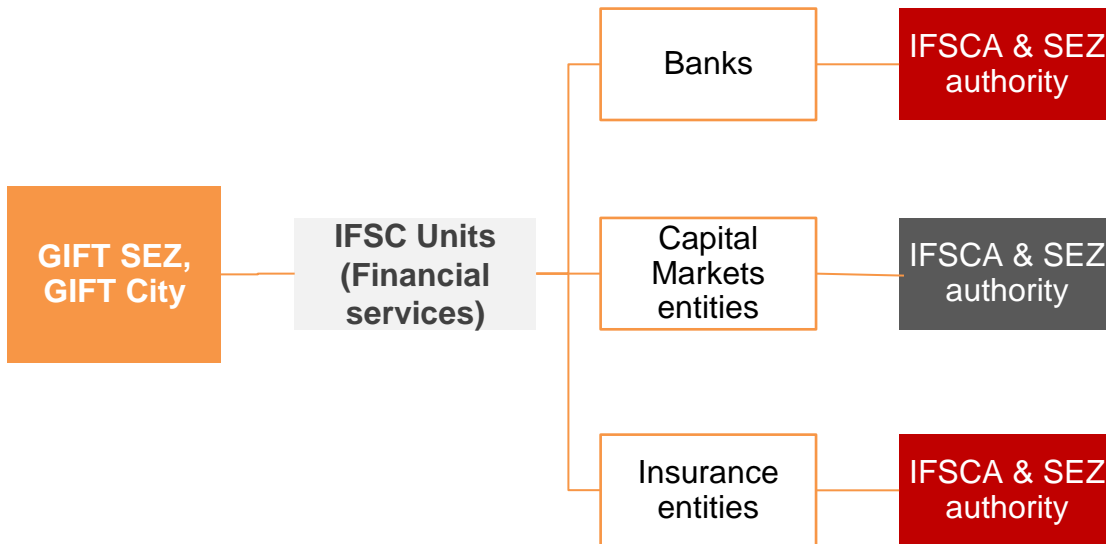
- Currently, there are no Indian aircraft leasing companies dealing in commercial aircraft.
- The presence of aircraft lessors in IFSC would not only help airlines companies in India in terms of creating greater opportunities for better leasing terms and conditions, but also help them navigate currency depreciation risks better, thus removing uncertainties from their operational framework
- The Indian Government along with the state Government has undertaken significant regulatory and tax reforms to incentivize the growth of Indian aviation industry. These reforms reflect strong commitment of the Indian Government to make India 'Aatmanirbhar' in the aviation industry

Aircraft Leasing : Journey so far



Overview of IFSC framework

Overview of IFSC regulatory framework



Overview of regulatory framework – Aircraft Leasing Companies

Regulatory set up

- Special Economic Zones Act, 2005
- The International Financial Services Centres Authority Act, 2019
 - IFSCA has been established and is functional
 - IFSCA has assumed powers over other financial service regulators and is now a unified regulator

Guidelines

- RBI's guidelines for setting up of IFSC Banking Units (IBU)
- SEBI (International Financial Services Centres) Guidelines, 2015
- IFSCA (Finance Company) Regulations, 2021
- IFSCA's circular on Framework for Aircraft Operating Lease



Exchange Control regulations

- FEM (International Financial Services Centre) Regulations, 2015
- FEM (Foreign Currency Accounts by a Person Resident In India) Regulations, 2015
- FEM (Transfer or issue of Foreign Security) Regulations, 2004

Tax Laws

- Income-tax Act, 1961
- Goods and Services Tax Law
- Customs Act, 1962
- Double taxation avoidance agreements signed by India with 95 other countries

Overview of Tax framework

Key Direct tax parameters	Units in IFSC
Corporate tax/ Withholding tax	<ul style="list-style-type: none"> 100% profit linked deduction for any 10 consecutive years out of first 15 years of operations, at the option of the Company Depreciation on aircraft and aircraft engines is allowed at 40% on a written down value (WDV) basis Unabsorbed depreciation can be carried forward to the subsequent years to be set off against future profits, without any time limit. Post tax holiday, 22% (plus applicable surcharge and cess) for domestic companies that opted to forego certain deductions (with an exception of deductions available to IFSC)
Minimum alternate tax (MAT)	<ul style="list-style-type: none"> MAT @ 9% (plus applicable surcharge and cess) of book profits applies to a Company setup as a unit in IFSC - Not applicable to companies in IFSC opting for new tax regime of 22%
Withholding tax (WHT) on interest payment	<ul style="list-style-type: none"> No WHT on interest paid to non-residents by units in the IFSC i.e. interest income exempt from tax
WHT on lease rentals	<ul style="list-style-type: none"> No WHT on aircraft lease payments, in the nature of royalty, paid to non-residents by units in the IFSC (provided operations commence before 31 March 2024) i.e. operating lease rentals exempt from tax
Capital gains on disposal of aircraft	<ul style="list-style-type: none"> 100% profit linked deduction available on capital gains arising on transfer of aircraft or aircraft engine leased by IFSC unit to domestic company (provided operations commence before 31 March 2024)

Key Indirect tax parameters	Units in IFSC
Import of goods/ services into the IFSC: <ul style="list-style-type: none"> Procurement on outright purchase basis Procurement on operating lease basis 	<ul style="list-style-type: none"> Import of aircraft/ aircraft engine into the IFSC is not subject to basic custom duty (BCD). However, aircraft / aircraft engine required to be landing in SEZ for such exemption to apply. Currently, only Nagpur Airport is a designated SEZ for above condition to be fulfilled Leasing of aircraft/ aircraft engine into the IFSC is not subject to Integrated Goods and Services Tax (IGST), provided services are procured for authorized operations in an SEZ
Leasing (operating lease) of aircraft/ aircraft engine to an Indian airline company by a unit in the IFSC	<ul style="list-style-type: none"> Import of aircraft/ aircraft engine by an Indian airline company (operator) from an Indian lessor located in the IFSC is not subject to BCD, provided the aircraft is imported by the operator (or on behalf of the operator) for scheduled air operations Leasing of aircraft/aircraft engine by a unit in the IFSC to an Indian airline company is subject to IGST under forward charge at the rate of 5% on lease rental payments
Stamp duty	<ul style="list-style-type: none"> Exemption on all activities related to setting up of units in the IFSC and acquisition of any movable property (including aircraft) or immovable property for a period of 10 years commencing from 4 August 2020, may not be available for sale of an aircraft

Key regulatory Framework and Guidelines – Aircraft Financial Lease Framework

Parameters	Norms prescribed
Permitted Core activities for finance companies set-up in IFSC	Finance companies set-up in IFSC can <i>inter alia</i> carry out Financial lease transactions for aircraft lease and ship lease
Permitted Non-core activities for finance companies set-up in IFSC	Finance companies set-up in IFSC can <i>inter alia</i> undertake transactions permitted under the framework for aircraft and ship operating lease
Eligibility Criteria	<ul style="list-style-type: none">• Set-up operations in IFSC by way of a subsidiary / joint venture / a newly incorporated company under Indian corporate laws (Finance Company) or a branch (Finance Unit) of investing entity or in any other form as may be specified by the IFSCA• Investing entity to obtain No-objection certificate from its home country regulator for setting up a Finance Company / Unit in IFSC if it carries out a regulated financial activity in its home jurisdiction
General business guidelines	<ul style="list-style-type: none">• An entity registered with IFSCA and engaged in the business of providing aircraft or helicopter and engines of aircraft or helicopter or any other part thereof under a financial lease• Lessors shall transact in freely convertible foreign currency only• Lessor and/or its promoters shall be from FATF compliant jurisdiction• Permitted to undertake financial lease for an aircraft• Any other related activity with prior approval of the IFSCA
Capital Requirement	<ul style="list-style-type: none">• Minimum capital of USD 3 Mn or its equivalent in freely convertible foreign currency, to be maintained at all times• IFSCA may prescribe maintenance of additional capital, if required, based on the nature and scale of business
Prudential Norms	<ul style="list-style-type: none">• <u>Capital Ratio*</u>: Minimum Capital Ratio for regulatory capital shall be 8% of its risk-weighted assets or at such percentage as may be specified by the IFSCA• <u>Liquidity Coverage Ratio (LCR)</u>: Finance Company / Unit to maintain IFSCA prescribed LCR on stand-alone basis at all times• <u>Exposure Ceiling #</u>: Sum of all exposures to a single counterparty or group of connected counterparties shall not exceed 25% of its available eligible capital base without the approval of the IFSCA

* Refer Circular – 'Computation of Regulatory capital' issued by IFSCA on 26 April 2021

Refer Circular – Framework on Computation of Exposure Ceiling for Finance Companies and Finance Units' issued by IFSCA on 25 May 2021

Key regulatory Framework and Guidelines – Aircraft Operating Lease Framework

Parameters

Norms prescribed

Permissible Activities	<ul style="list-style-type: none">• Entities permitted to undertake operating lease for an aircraft including sale and lease back, purchase, novation, transfer, assignment, other similar transactions in relation to aircraft lease,• Any other related activity with prior approval of the IFSCA
Eligibility Criteria	<ul style="list-style-type: none">• Set-up operations in IFSC in by way of a Company or a Limited Liability Partnership or a Trust or in any other form as may be specified by the IFSCA• Person(s) in control shall be from FATF compliant jurisdiction• Deploy resources in IFSC commensurate with the business operations under this framework.• Exempted from Prudential Norms as prescribed under Financial Lease framework
General business guidelines	<ul style="list-style-type: none">• An entity registered with IFSCA and engaged in the business of providing aircraft or helicopter and engines of aircraft or helicopter or any other part thereof under a operating lease• Lessors shall transact in freely convertible foreign currency only• Books of accounts and financial information to be maintained in such foreign currency, as may be declared at the time of making application.• Reporting to IFSCA to be done in USD
Capital Requirement	<ul style="list-style-type: none">• Minimum capital of USD 0.2Mn or its equivalent in freely convertible foreign currency, to be maintained at all times• IFSCA may prescribe maintenance of additional capital, if required, based on the nature and scale of business

An aircraft lessor undertaking aircraft financial lease arrangement is required to maintain the prescribed prudential regulatory ratios.

However, the aircraft lessor undertaking aircraft operating lease arrangement is exempted from maintaining these ratios given the framework for aircraft operating lease has been outlined separately by the IFSCA.

Further, IFSCA (Banking) Regulations 2020 has also permitted IFSC banking units to undertake equipment leasing, including aircraft leasing.

Key steps for setting up Aircraft Leasing Business in GIFT IFSC



Thank you

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