

FAQs for Aircraft Leasing & Financing in IFSC

1. What are the regulations governing aircraft leasing operations in IFSC?

Under the IFSC Authority Act, 2019 'financial institution' has been defined to mean a unit set up in an IFSC and which is engaged in rendering financial services in respect of any financial product. Further, a 'financial product' has been defined in the said Act to include 'any other product or instrument that may be notified by the Central Government from time to time'.

The Government of India vide Notification dated 16 October 2020 notified 'Aircraft Lease' as a 'financial product'. As stated in the said notification, 'aircraft lease' shall include operating and financial lease and any hybrid of operating and financial lease of aircraft or helicopter and engines of aircraft or helicopter or any other part thereof.

Subsequently, on 19 February 2021 the IFSC Authority issued a Framework for Aircraft Operating Lease which was repealed by Framework for Aircraft Lease dated 18 May 2022 in order to facilitate setting up of and enabling the aircraft leasing business in the IFSC.

2. What is defined as an Aircraft?

In connection to leasing of aircraft by a unit in IFSC, the term 'Aircraft' has been defined in section 10(4F) of the Income tax Act, 1961 to mean an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof.

3. What is defined as aircraft ground support equipment?

Aircraft ground support equipment shall mean:

- any piece of mobile equipment, whether or not powered or self-propelled, purpose designed built and used for ground handling, servicing or field maintenance of aircraft on the ramp area of an airport and includes any piece of ground support equipment specified as such by IATA from time to time; and
- equipment used for providing services necessary for ramp handling

4. What is defined as a Lessor?

Under the Framework for Aircraft Operating Lease, a 'lessor' shall mean an entity:

- engaged in the business of providing aircraft or helicopter and engines of aircraft or helicopter or any other part thereof and / or aircraft ground support equipment under an operating lease, financial lease or hybrid lease and;
- is registered with the IFSC Authority as a Finance Company in accordance with the framework for aircraft operating lease

5. What are the activities permitted to an aircraft operating lessor in IFSC?

An aircraft operating lessor in IFSC shall be permitted to undertake the following activities:

- Operating lease for an aircraft lease arrangement including sale and lease back, purchase, novation, transfer, assignment, and such other similar transactions in relation to aircraft lease;
- Operating lease for an aircraft ground support equipment;
- Asset Management Support Services for assets owned or leased out by the entity or by its wholly owned subsidiary (ies) set up in IFSCs in India;
- any other related activity

6. What are the activities permitted to an aircraft financial lessor in IFSC?

An aircraft financial lessor in IFSC shall be permitted to undertake the following activities:

- Financial lease or a hybrid of financial and operating lease for an aircraft lease arrangement including sale and lease back, purchase, novation, transfer, assignment, and such other similar transactions in relation to aircraft lease;
- Financial lease or any hybrid of financial and operating lease for an aircraft ground support equipment;
- Permitted activities as stated above at clause 5 (E) of this framework;
- any other related activity

7. What shall be the legal form of an entity permitted to carry out aircraft leasing operations in IFSC?

An applicant entity desirous of setting-up operations in IFSC as a lessor and undertake operating leasing activities shall be set-up by way of a Company or a Limited Liability Partnership or a Trust or in any other form as may be specified by the IFSC Authority.

8. What are the eligibility conditions for an entity desirous of setting up aircraft leasing operations in IFSC?

An applicant entity shall meet the following eligibility criteria:

- The person(s) in control of the applicant entity shall be located in a Financial Action Task Force compliant jurisdiction;
- The entity shall deploy resources commensurate with its business operations;
- The entity shall comply with capital requirements as specified;
- The Lessor shall comply with the Cape Town Convention and Protocol and all other applicable statutory obligations, regulatory requirements, standards, policies, directions and guidelines

9. Is there a minimum capital requirement for setting up a leasing entity in IFSC?

Yes. The framework prescribes a minimum capital of USD 200,000 in case of operating lease and USD 3,000,000 or its equivalent in freely convertible foreign currency, to be maintained at all times by the entity. As per the application form specified in the framework, the entity shall undertake to bring in the capital before entering into any permissible activity or twelve months from the date of grant of registration, whichever is earlier.

10. Can Aircraft leasing entity in IFSC raise money in any foreign currency?

Yes, an aircraft leasing entity in IFSC can raise money in any freely convertible foreign currency.

11. In what currency shall the lessor entity conduct business in IFSC?

Lessors shall transact in freely convertible foreign currency only. However, the lessors may defray their administrative expenses in INR by maintaining a separate INR account.

12. In what currency shall the lessor entity maintain books of accounts and documents?

Every lessor registered in IFSC shall maintain its books of accounts, records, and documents as may be required. The books of accounts and other financial information shall be maintained in such foreign currency, as may be declared at the time of making the application.

13. Are there any conditions regarding submission of report/ information by the lessor entity?

- Every lessor registered in IFSC shall furnish the following information to the IFSC Authority within 15 days from the finalisation of annual financial statements:
 - o Annual financial statements;
 - o Confirmation of compliance with the regulations, circulars, guidelines and directions issued by the IFSC Authority for the permissible activities in the IFSC;
 - o Confirmation of compliance with capital requirement and details thereof;
 - o Details of material regulatory action, if any, against the entity or persons(s) controlling the entity;
- Every lessor registered in IFSC shall submit all the financial information to the IFSC Authority in USD, unless otherwise specified.

- The IFSC Authority from time to time may call for any information, documents, or records as it may deem necessary from the lessor.

14. What are the fees payable by operating lessor entity to the IFSC Authority?

The lessor shall pay to IFSC Authority such fees and charges as specified from time to time.

The fees for operating lease are as under:

- Application Fee: USD 1,000 (one time)
- Registration Fee: USD 5,000 (one time)
- Annual Fee: USD 3,000 (second year onwards)

The fees for financial lease are as under:

- Application Fee: USD 1,000 (one time)
- Registration Fee: USD 12,500 (one time)
- Annual Fee: USD 12,500 (second year onwards)

15. What are the documents to be submitted at the time of registration?

The following are the documentary requirements along with the duly filled application form:

- Copy of the incorporation certification/registration document of the Applicant, person(s) in control as may be applicable;
- Constitutional documents (such as Memorandum and Articles of Association/ Partnership Deed, Trust Deed) of the Applicant, person(s) in control as may be applicable;
- Last 3 years audited consolidated financial statements of the Applicant, person(s) in control, as may be applicable;
- Declaration in the specified format on the letterhead of the Applicant

16. Is an entity in IFSC required to confirm to any multilateral convention for undertaking aircraft leasing?

An entity in IFSC intending to undertake aircraft leasing shall be in conformity to the Cape Town Convention and Protocol.

17. Is India a signatory to Cape Town Convention and Protocol?

Yes. India is a signatory to the Cape Town Convention and Protocol.

18. Can an IFSC Banking Unit (IBU) undertake finance leasing operations?

Yes. Under the IFSC Authority (Banking) Regulations, 2020, a Banking Unit has been permitted to undertake equipment leasing, including aircraft leasing.

19. What is the indirect tax framework for aircraft leasing operations in IFSC?

- Import of goods/ services into the IFSC:
 - Procurement on outright purchase basis: Import of aircraft/ aircraft engine into the IFSC is not subject to basic custom duty (BCD).
 - Procurement on operating lease basis: Leasing of aircraft/ aircraft engine into the IFSC is not subject to Integrated Goods and Services Tax (IGST), provided services are procured for authorised operations in an SEZ.
- Leasing (operating lease) of aircraft/ aircraft engine to an Indian airline company by an IFSC unit:
 - 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 an 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.

20. Are there any other benefits such as stamp duty provided to units carrying out aircraft leasing operations in IFSC?

- A unit in the IFSC, engaged in the aircraft leasing business, has been granted a waiver from payment of stamp duty 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. However, this waiver may not be available on the stamp duty arising on the sale of an aircraft.

21. What are the approvals required for setting up an aircraft leasing entity in IFSC and to whom shall the application be made?

Approvals required to be obtained for setting up an aircraft leasing entity in IFSC are as follows:

- Approval from SEZ authorities
- Approval from IFSC Authority

Application for setting up an aircraft leasing entity in IFSC should be made in:

- Form F to Development Commissioner, Kandla SEZ for SEZ approval.
- Specified application form to the IFSC Authority for IFSC Authority's approval.

22. What are the steps for setting up an aircraft leasing entity in IFSC?

The key steps for setting up an aircraft leasing entity in IFSC are as follows:

- Identification of office space in GIFT City and obtaining NOC from GIFT SEZ.
- Apply for incorporation of the entity.
- Application to IFSCA or SEZ authorities and obtain letter of approval.
- Obtain IFSC Authority approval.
- On obtaining approvals from SEZ authorities and IFSC Authority, GIFT SEZ to issue Final Letter of Allotment for allocation of space.
- Execute lease deed / leave and license with the Developer for the allotted space.
