Relocation of Funds to GIFT IFSC

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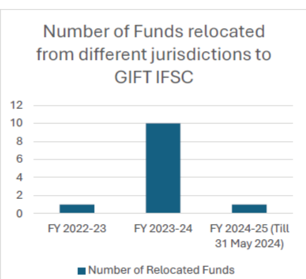
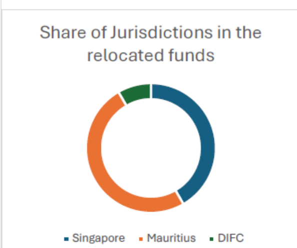
INTRODUCTION

The fund regime has been one of the sweet spots in the growth of business at GIFT IFSC. In the recent months, several global and Indian investment managers have moved their financial operations from foreign jurisdictions by setting up units at GIFT IFSC. As on 31 May 2024, 124 Fund Management Entities (FMEs) (Investment Managers) and 137 Alternate Investment Funds (AIFs) have been set up at GIFT IFSC with a targeted corpus of ~USD 37 billion.

A prime objective behind the setting up of this offshore jurisdiction on the Indian soil is to onshore the offshore international financial services and act as a gateway for global capital flows into and out of the country. And one critical area reflecting this intent coming into reality has been the relocation of existing investment funds from prominent jurisdictions to GIFT IFSC. As on 31 May 2024, 12 funds have relocated from various jurisdictions to GIFT IFSC with a targeted commitment of ~ USD 5 billion. It may be noted that most of these funds have been relocated in recent months and exhibit a certain inflexion point in the incoming applications for fund relocation.





This upward trend in the applications has not been sudden but the result of committed actions by various stakeholders over the past years.

The most significant of them have been the budget facilitations that have demonstrated the government's commitment towards a vibrant regime at GIFT IFSC. The Finance Act, 2021, amended several provisions of the Income-tax Act, 1961, to facilitate the relocation of offshore funds to GIFT IFSC in a tax-neutral manner. The provisions prevent adverse tax consequences for the original fund[1] and its investors due to the fund's relocation to the IFSC.

Additionally, SEBI through the release of circular ("**2021 Circular**") dated June 01, 2021, allowed a one-time off-market transfer of securities by a Foreign Portfolio Investor to the IFSC. The Circular opened a critical doorway allowing relocation of foreign funds (set-up as FPIs) to set up Category-III AIFs in GIFT IFSC.

In the earlier regime for funds at GIFT IFSC, AIFs were being set up under SEBI (International Financial Services Centres) Guidelines, 2015 ("IFSC Guidelines") and the operating guidelines dated November 26, 2018. Consequently, the IFSCA (Fund Management) Regulations, 2022, came into effect on May 19, 2022, providing a comprehensive regime with provisions for relocation of funds to GIFT IFSC.

Further, IFSCA vide Circular No. 81/IFSCA/AIFs/2020-21/03 dated 25 June 2021, provided that the continuing interest requirement by the Manager or Sponsor in the AIF provided under[2] the operating guidelines for AIFs in IFSC dated November 26, 2018, shall be voluntary. The circular also provided that an AIF in IFSC is permitted to invest in units of schemes launched by mutual fund regulated in a FATF compliant jurisdiction (including India).

A typical structure adopted by the fund managers for relocation of the funds can be demonstrated through the following:

ABC Pte. Ltd. ('Original Fund') is a private limited company, incorporated in Singapore, which proposes to relocate its assets to GIFT IFSC. The Original Fund is registered as a Foreign Portfolio Investor ('FPI') in accordance with SEBI (Foreign Portfolio Investors) Regulations, 2019 ('FPI Regulations') and has invested in units of Indian AIFs registered with SEBI and in securities of portfolio companies. The route it shall take towards the same with respect to IFSCA can be simplified as follows:

1. *The Income Tax Act, 1961 defines the term 'original fund', 'relocation' and 'resultant fund'*
2. *para 8 of the Annexure to the operating guidelines for AIFs in IFSC dated November 26, 2018*

1. Step 1- Registration of the Investment Manager as a Fund Management Entity (FME) with IFSCA under IFSCA (Fund Management) Regulations, 2022.
2. Step 2- Post registration, the FME may file its scheme/ Fund Documents in line with circular F. No. IFSCA-AIF/32/2024-Capital Markets dated April 05, 2024, with IFSCA.

Post step 1 and step 2, the Offshore Fund shall transfer its existing asset units held in 'India Fund' to the 'Resultant Fund' in IFSC. The Resultant Fund will issue units to Investors of the Offshore Fund as a consideration towards the transfer.

There is a strong rationale for funds abroad to relocate through the route as demonstrated above. It provides a number of advantages and benefits to both the investors and the investment managers. Some of them are entailed as follows:

1. Benefit of tax neutral transition for funds relocating to GIFT IFSC on/before 31 March 2025. Relocation of such offshore funds to an IFSC based fund is tax neutral for offshore fund, IFSC based fund and its investors.
2. Exemption to FME contribution (also understood as Continuing Interest of the Sponsor/ Sponsor Commitment) under the proviso of Regulation 28(1), Regulation 40(1) and Regulation 52(1) for Venture Capital Schemes, Non- Retail Schemes and Retail Schemes, respectively.

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3. Tax Holiday- 100% tax exemption on business income for 10 consecutive years out of 15 years and exemption from levy of GST for entities in IFSC.
4. There are no capital gains taxes for investing in units set at up at GIFT City, similar to Singapore or Dubai.
5. Relaxation in the requirement of obtaining a Permanent Account Number (PAN) for Non- Resident investors.
6. The cost of setting up a business, running operations, real estate, is significantly lower than other foreign jurisdictions and provides better administrative control to the investment managers.
7. The relocation ensures consolidation of the tax pool under Indian regulatory and tax regime.
8. Faster application turnaround with an endeavor of the regulator to remain proactive to the needs of the industry and provide a stable regulatory regime.
9. The familiarity of operating business on the Indian soil greases the wheels of operations, contributing further to cost efficiency and ease of doing business.
10. Proximity to the Indian Markets

CONCLUSION

The above benefits and advantages leave lesser rationale for investment managers to manage funds from far away jurisdictions, even so when the funds are inbounded into Indian domestic markets as FPI and FDI. Thus, Indian-based and India-centric GPs (Investment Managers) should consider relocating their offshore funds to GIFT IFSC.

GIFT IFSC today provides parity with global jurisdictions. The structured efforts aim to create fertile ground for the movement of offshore financial services to Onshore GIFT IFSC. The relocation of the offshore funds is one area of growth to watch out for in this space of Funds @ GIFT IFSC.