

## Framework for Aircraft Leasing in GIFT IFSC

### Background

The civil aviation industry in India has emerged as one of the fastest growing industries in the country during the last few years. The Indian aviation market has grown tremendously over the past decade and showed immense resilience despite strong headwinds due to COVID-19. India is the third largest domestic & the fastest growing aviation market in the world. With the industry almost recovering to pre-COVID-19 levels, the long-term outlook is very bullish, and time is now ripe to build the leasing and financing ecosystem in India. The Government of India has, in the recent years, realized the importance of aircraft leasing activities in the global market and has made its intentions clear to promote aircraft leasing and financing activities in India's first International Financial Services Centre (IFSC) situated in Gujarat International Finance Tec-City (GIFT) City, Gandhinagar. The aim is to bring the aircraft leasing business, in line with the one currently being carried out in countries like Ireland, USA, Hong Kong, Singapore, etc. to the Indian shores. The Government of India vide Gazette Notification dated 16<sup>th</sup> October 2020 has

notified 'Aircraft Lease' as 'financial product'. As per the said Notification, the '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.

### Overview of Framework for Aircraft Leasing in GIFT IFSC

#### 1) Permissible Activity

- Operating lease or financial lease or a hybrid of operating and financial lease for an aircraft, helicopter, engines and parts thereof ;
- Lease arrangement such as sale and lease back, purchase, novation, transfer, assignment and such other similar transactions in relation to aircraft lease ;
- Operating lease or financial lease or hybrid of operating and financial 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 set up in IFSC in India;
- Any other related activity with prior approval of International Financial Services Centre Authority (IFSCA).

## 2) Eligibility and Registration Requirement

### Financial Lease

- Finance company can set up their operation by way of subsidiary or newly incorporated company or LLP under the Finance Company Regulations or a Branch (Finance Unit) of investing entity.

### Operating Lease

- Set up operations in IFSC by way of a company, trust, Limited Liability Partnership (LLP) or in any other form as prescribed by IFSCA.

## 3) Capital Requirement

### Financial Lease

- Minimum capital of USD 300,000 or its equivalent in freely convertible foreign currency is to be maintained at all times by the entity.

### Operating Lease

- Minimum capital of USD 200,000 or its equivalent in freely convertible foreign currency is to be maintained at all times by the entity.

## 4) Prudential Norms

### Financial Lease

- Capital Ratio: 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.
- Liquidity Coverage Ratio (LCR): Finance Company / Unit to maintain IFSCA prescribed LCR on stand-alone basis at all times
- Exposure Ceiling: 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 Prudential Norms.

### Operating Lease

- Exempted from Prudential Norms as prescribed under Financial Lease framework.

## 5) Fees :-

### Financial Lease

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

### Operating Lease

- Application Fee: \$ 1000 (one time)
- Registration Fee: \$ 5000 (one time)
- Annual Fee: \$ 3000 (second year onwards)

## 6) General Conditions :-

- In addition to capital requirement mentioned in (3) above, the IFSCA may specify maintenance of additional capital, as a risk management measure, based on the nature and scale of business of the Lessor.
- All transactions undertaken by a Lessor shall be in freely convertible foreign currency only. However, the Lessor may defray their administrative expenses in INR by maintaining a separate INR account.
- The Lessor shall maintain its books of accounts, records, and documents as required under applicable law. The books of accounts and other financial information shall be maintained in any such freely convertible currency.
- The Lessor shall submit the audited annual financial statement along with other documents as specified in the framework to the IFSCA within 15 days from the finalization of annual financial statements
- The Lessor shall submit all the financial information, expressed in USD, to the IFSCA, unless otherwise specified.
- The IFSCA may, from time to time, call for any information, documents, or records as it may deem necessary from the Lessor.
- The Lessor shall comply with the Cape Town Convention and Protocol and all other applicable statutory obligations, regulatory requirements, standards, policies, directions and guidelines.
- The Lessor shall deploy resources commensurate with its business operations.
- If a Lessor fails to fulfil the conditions subject to which the registration is granted, the IFSCA may take any action as it may deem fit, after giving an opportunity of making submissions, if any.

## Overview of Tax Framework

The Central government has announced various tax incentives for Aircraft leasing and financing sector, majority of the same are as follows:

### Direct Taxes

- 100% profit deduction for any 10 consecutive years out of first 15 years of operations
- Minimum Alternate Tax (**MAT**) @ 9% of book profits applies to a company/LLP set up in IFSC.
- MAT is not applicable companies in IFSC opting for new tax regime.
- No withholding tax on interest paid to non-residents by entity registered in IFSC, provided such entity commences its business operation by 31<sup>st</sup> March 2024.
- No withholding tax on aircraft lease payments, in the nature of royalty paid to non-resident by entity registered in IFSC, provided such entity commences its business operation by 31<sup>st</sup> March 2024.
- Withholding tax on lease rental paid by lessee to lessor (IFSC entity) has been exempted on fulfillment of condition mentioned vide [Notification no. 65/2022/F.No.275/30/2019-IT\(B\)](#) issued by CBDT, which come into force from 1<sup>st</sup> July 2022.
- No capital gain arising on transfer of aircraft or aircraft engine leased by IFSC unit to domestic company.
- Depreciation on aircraft and aircraft engines is allowed @ 40% on a written down value (WDV) basis.

### Indirect Taxes

- No basic custom duty on import of aircraft / aircraft engine into the IFSC
- No GST is to be charged on leasing of any aircraft/ aircraft engine or any services procured for authorized operations in the IFSC.
- Leasing of aircraft / aircraft engine by a unit in IFSC to an Indian airline company is subject to IGST under forward charge @ 5% on lease rental payments.

- Waiver of stamp duty on acquisitions of aircrafts and related activities for a period of 10 years commencing from 4<sup>th</sup> August 2020.

### CNK Comments

As per the news reports on the current domestic aviation market, over 80% of the aircrafts operating in India are on lease. This is due to shortage of readily available cash with airline companies. 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. Given the vision of the government to onshore the aircraft leasing activities that are currently being exported to offshore jurisdictions, GIFT IFSC with its unique regulatory, legal and tax regime and access to world class infrastructure and skillset has the potential to become an aircraft leasing hub in the global market.

# KEY TAKE AWAY

- Light touch regulations in a robust framework
- Offers an ideal platform to connect with global market
- Tax efficient jurisdiction
- Vibrant financial ecosystem
- At par with global aircraft leasing industries



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