

IFSCA FRAMEWORK FOR ESG RATINGS AND DATA PRODUCTS PROVIDERS

The International Financial Services Centres Authority (“**IFSCA**”) has issued Circular F. No. IFSCA-PLNP/12/2024-Capital Markets, dated October 30, 2024, establishing a regulatory framework for ESG Ratings and Data Products Providers (“**ERDPPs**”) within the International Financial Services Centre (“**IFSC**”). Effective immediately, this framework designates ERDPPs as intermediaries under the IFSCA (Capital Market Intermediaries) Regulations, 2021 (“**CMI Regulations**”), setting forth detailed registration, operational, and compliance requirements. Below, we analyze its provisions and implications.

Background and Context

The framework responds to the global rise of Environmental, Social, and Governance (“**ESG**”) considerations, driven by net-zero commitments, investor emphasis on social impact, and regulatory mandates for sustainability disclosures. It builds on the International Organization of Securities Commissions (IOSCO) 2021 recommendations for ERDPP oversight, as well as frameworks in other jurisdictions and the voluntary Code of Conduct by the International Capital Market Association (ICMA) and International Regulatory Strategy Group (IRSG) in December 2023. In India, the Securities and Exchange Board of India (“**SEBI**”) permitted its registered ESG Rating Providers (“**ERPs**”) to operate in the IFSC via a circular dated July 19, 2024, while IFSCA allowed its Credit Rating Agencies (“**CRAs**”) to undertake ESG activities through circulars dated July 31, 2024, and October 1, 2024. This framework formalizes these efforts, aiming to enhance the IFSC’s ESG ecosystem, though its success hinges on balancing global alignment with practical implementation.

Scope and Applicability

The circular governs entities providing ESG Ratings (e.g., scorings, rankings, sector-specific ratings, thematic scores) or ESG Data Products (e.g., ESG-related information services, including reviews of ESG-labeled bonds listed on IFSC exchanges). Registration as an ERDPP is mandatory, except for IFSCA-registered CRAs, which can offer ESG services without additional approval—a pragmatic exemption given their existing oversight. SEBI-registered ERPs, however, must seek IFSCA registration, introducing a dual-compliance burden that may deter participation unless the IFSC offers clear operational advantages, such as tax incentives or market access.

Registration Requirements

1. **Legal Structure:** Applicants must establish an IFSC presence as a branch, company, limited liability partnership, or other permitted entity. Branches are restricted to entities already active in ESG services in India or abroad, with a "ring-fencing" obligation to isolate IFSC operations. This safeguard mitigates risk but may complicate integration for multinational firms.
2. **Net Worth:** A minimum of USD 25,000 must be maintained, a threshold that encourages entry but raises questions about the financial robustness of smaller ERDPPs in a complex market.
3. **Fees:** A non-refundable application fee of USD 1,000, a registration fee of USD 3,500, and an annual fee of USD 3,500 apply (Annexure III), aligning with IFSCA's fee structure but adding to operational costs.
4. **Fit and Proper Criteria:** The entity, its principal officer, directors, key managerial personnel (KMPs), and controlling shareholders must meet CMI Regulations' standards, ensuring integrity but leaving qualitative terms like "satisfactory financial credit worthiness" open to interpretation.
5. **Personnel:** A Principal Officer with a postgraduate degree in finance, law, or related fields and "adequate experience" (undefined in scope) is required, alongside a Compliance Officer and trained staff. This ensures expertise but risks inconsistent enforcement due to vague experience criteria.

Application Process: Entities submit the Common Application Form (Annexure I) and ERDPP-specific details (Annexure II) covering experience and infrastructure. The IFSCA may grant registration with conditions or refuse it after a 30-day rectification period and written submissions, a fair process that still depends on clear deficiency communication.

Operational and Compliance Obligations

1. **Code of Conduct:** ERDPPs must follow principles of governance, quality, conflict management, transparency, confidentiality, and engagement on a "comply or explain" basis, with compliance disclosed online. This flexibility aligns with international norms but risks uneven adherence if explanations lack rigor.

2. **ESG Ratings Process:** Methodologies must be publicized, enhancing transparency per IOSCO standards, though balancing proprietary concerns remains a challenge the framework acknowledges without fully resolving.
3. **Segregation:** ESG activities must be distinct from other operations to prevent conflicts, a sound principle that may nonetheless increase costs for diversified entities.
4. **Audits and Records:** Annual audits by qualified professionals (e.g., from the Institute of Chartered Accountants of India) and record-keeping per Regulation 14 are mandated, ensuring accountability but adding to compliance overhead.
5. **Reporting:** Material changes and periodic submissions to the IFSCA are required, fostering oversight but necessitating robust internal systems.

Permissible Activities and Restrictions

Registered ERDPPs may offer ESG Ratings and Data Products in the IFSC or foreign jurisdictions, but additional services require prior IFSCA approval. This focus on core ESG functions ensures specialization yet may limit innovation as the ESG landscape evolves, suggesting a need for a streamlined approval process.

Enforcement and Oversight

The IFSCA can withdraw registration (after a hearing), demand information, and approve changes in control (mandatory for IFSC-incorporated entities, intimation for branches). Grievance redressal and business continuity plans are required, though the lack of detailed redressal guidelines may lead to inconsistent practices. The oversight framework is robust, but its effectiveness depends on consistent application and resource allocation.

Implications and Conclusion

The IFSCA's framework positions the IFSC as a credible hub for ESG services, leveraging global trends and India's regulatory foundation. Its alignment with IOSCO and ICMA standards is a strength, yet challenges persist: the dual-registration burden for SEBI-registered ERPs, a modest net worth threshold, and ambiguities in qualitative criteria (e.g., "adequate experience") could hinder implementation. Entities must weigh IFSC benefits—such as tax advantages—against compliance costs.

NOTIFICATION OF DELHI ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR GREEN ENERGY OPEN ACCESS) REGULATIONS, 2024

Introduction

On October 7, 2024, the Delhi Electricity Regulatory Commission (“DERC”) ushered in a significant policy shift with the notification of the *Delhi Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2024* (“**GEOA Regulations**”). Published in the official gazette and effective immediately, these regulations are anchored in the legal framework of the *Electricity Act, 2003*, specifically Sections 42, 61(h), 66, and 86(1)(e), read with Section 181, and are further aligned with the *Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022* issued by the Ministry of Power, Government of India. The GEOA Regulations are designed to catalyze the adoption of renewable energy in the National Capital Territory of Delhi (NCTD), a region heavily reliant on conventional energy sources, by promoting green energy alternatives such as solar, wind, hydro, and other renewable technologies, including those integrated with storage systems.

The overarching objectives of these regulations are multifaceted: they aim to reduce Delhi’s dependency on fossil fuels like coal, lignite, and gas, which dominate traditional power generation, while ensuring compliance with Renewable Purchase Obligations (“**RPO**”) mandated under the *Electricity Act, 2003*. By facilitating access to green energy for consumers with a contracted demand or sanctioned load of 100 kW or more, the regulations establish a transparent and non-discriminatory open access framework. Additionally, they offer a suite of incentives—such as exemptions from certain charges, reduced cross-subsidy surcharges, and banking facilities for surplus energy—to make green energy economically viable and attractive. Beyond financial benefits, the GEOA Regulations provide detailed guidelines and streamlined procedures for application, access, and utilization, ensuring that consumers, captive generators, and distribution licensees can seamlessly integrate renewable energy into Delhi’s energy ecosystem. This comprehensive approach positions Delhi as a potential leader in urban renewable energy adoption, balancing environmental goals with operational practicality.

Criteria and Eligibility for GEOA

The GEOA Regulations, under Regulations 5 and 8, meticulously outline the criteria and eligibility for consumers seeking green energy open access (“GEOA”), reflecting a balance between accessibility and grid stability. Consumers with a contracted demand or sanctioned load of 100 kW or more, connected at a voltage level of 11 kV or higher—whether through a single connection or multiple connections aggregating to 100 kW within the same distribution licensee’s supply area—are eligible to source electricity from green energy sources. This threshold ensures that medium-to-large consumers, such as commercial establishments, industrial units, and institutional facilities, can participate, fostering widespread adoption across Delhi’s urban landscape.

A notable exception is made for owners of Captive Generating Plants (“CGPs”), as defined under Section 9 of the Act. These entities, which generate electricity primarily for self-use (including by cooperative societies or associations), face no load limitation, allowing them to establish green energy projects without constraints tied to their contracted demand or sanctioned load with distribution companies. This provision encourages self-sufficiency in renewable energy generation, particularly for entities with the resources to invest in captive infrastructure.

To maintain grid stability, Regulation 8(b) mandates that GEOA consumers must not alter their power consumption quantum for a minimum of 12 time blocks—each spanning 15 minutes—thereby avoiding sudden demand fluctuations that could strain the distribution network. Compliance with this requirement is enforced through advanced metering infrastructure: consumers with loads of 1 MW or above must install Availability-Based Tariff (ABT)-compliant meters at both generator and consumer ends, capable of recording energy in 15-minute intervals and supporting real-time monitoring by the State Load Dispatch Centre (SLDC). For loads below 1 MW, Special Energy Meters with similar 15-minute recording capabilities are required, ensuring accurate energy accounting across all scales. These meters must adhere to the *Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006*, as amended, and be certified by the licensee, adding a layer of technical rigor to the process.

However, eligibility comes with limitations. Regulation 8(c) stipulates that Green Energy (Renewable Energy) Generating Companies with subsisting Power Purchase Agreements (PPAs) with a distribution licensee cannot utilize GEOA for the same capacity—or any capacity already under open access—unless explicitly permitted by the PPA terms. This restriction prevents double-dipping into energy markets, ensuring fairness and contractual integrity. Applications for GEOA must be submitted to the Central Nodal Agency, a single-window system designated by the Central Government, which forwards them to the appropriate State Nodal Agency (SNA)—either the SLDC, State Transmission Utility (STU), or distribution licensee—depending on the access type. While these criteria broaden access to green energy, the upfront cost of metering infrastructure and the need for PPA clarity may pose initial hurdles for some applicants, necessitating robust support from DISCOMs and nodal agencies.

Part A – General: Categorization and Priority

Under Regulation 6, the GEOA Regulations categorize open access based on the duration of usage of the intra-state transmission and/or distribution system, providing flexibility to cater to varying consumer needs and project timelines. Long-Term GEOA grants the right to use these systems for a period exceeding 5 years but not exceeding 25 years, ideal for entities committing to sustained renewable energy integration, such as large industries or housing societies. Medium-Term GEOA spans a duration exceeding 11 months but not exceeding 5 years, suitable for temporary projects or transitional energy strategies. Short-Term GEOA, limited to a maximum of 11 months, caters to immediate or seasonal energy demands, with a proviso that renewals require fresh applications, resetting priority based on submission date. This tiered structure accommodates diverse operational contexts, from long-term sustainability goals to short-term tactical shifts.

Regulation 9 establishes a clear hierarchy for allotment priority, ensuring efficient capacity allocation amidst potential grid constraints. Distribution licensees are granted the highest priority, reflecting their critical role in maintaining supply reliability for all consumers. Within the open access domain, GEOA consumers take precedence over normal (non-green) open access consumers, incentivizing renewable energy adoption over conventional sources. Among GEOA consumers, a further prioritization applies: Long-Term GEOA consumers rank highest, followed by Medium-Term, and then Short-Term, with approvals processed on a first-come, first-serve basis contingent on available transmission and distribution system capacity margins (as per Regulation 5(b)). These margins include inherent design capacities, variations in power flows, and in-built spare capacity for future load growth.

This structured prioritization rewards long-term commitment and ensures equitable access, though short-term applicants may face delays during peak demand periods, highlighting the need for proactive capacity planning by STU and DISCOMs.

Part B – Application Procedures: Streamlined Processes

The application process for GEOA, detailed in Regulations 7 and 10, is designed to be systematic and time-bound, enhancing transparency and efficiency. Applications must be submitted in a prescribed form to the Central Nodal Agency, accompanied by non-refundable processing fees: ₹50,000 for Long-Term GEOA, ₹25,000 for Medium-Term GEOA, and ₹5,000 for Short-Term GEOA. For long- and medium-term applications, a bank guarantee is also required—₹50,000 for capacities below 1 MW and ₹1,00,000 per MW for 1 MW and above—valid until the signing of transmission/wheeling agreements, refundable within 25 working days post-signing or encashed if withdrawn earlier. An undertaking is mandatory, affirming that no conflicting PPAs or bilateral agreements exist for the requested capacity, though Regulation 7(b) permits consumers or DISCOMs to enter multiple agreements within approved GEOA limits, offering contractual flexibility.

The procedural timeline begins when the SNA receives the application from the Central Nodal Agency, marked as T0 (zero date). On T0, the SNA acknowledges receipt electronically, ensuring immediate confirmation. By T0+1 working day, the SNA verifies completeness, rejecting incomplete applications with written reasons, requiring a fresh submission post-rectification. Accepted applications are forwarded to the STU or concerned DISCOM by T0+3 for system availability checks—assessing metering infrastructure, pending dues, and PPA conflicts. By T0+7, the STU/DISCOMs complete system studies, confirming feasibility or notifying required upgrades (for long-term access), with deemed validity if no response is received. The SNA informs the applicant of approval or rejection by T0+8, with reasons for denial provided in writing; failure to respond results in deemed approval, subject to capacity. For medium- and long-term GEOA, applicants submit signed transmission/wheeling agreements by T0+10, executed by STU/DISCOMs by T0+13, and submitted to the SNA by T0+15, with GEOA effective the next day. Regulation 11 adds day-ahead transaction provisions, requiring applications by 13:00 hours the prior day, with approval by 15:00 hours. This rigorous timeline, while efficient, demands seamless inter-agency coordination, and the bank guarantee requirement may deter smaller entities unless offset by clear financial benefits.

Part C – Charges: Financial Framework

Regulation 13 comprehensively outlines the financial obligations for GEOA consumers, balancing costs with incentives to promote renewable energy. Wheeling charges and losses, determined by DERC in tariff orders (in paisa/kWh), apply for using the distribution system, except when consumers are directly connected to the transmission system or use dedicated lines, reducing costs for such setups. Cross-subsidy surcharges (CSS), also in paisa/kWh, are levied per billing cycle based on energy consumed, payable to the DISCOM, but are exempted for captive generation, non-fossil fuel-based waste-to-energy plants, green hydrogen/ammonia production, and offshore wind projects commissioned by December 2032. For other cases, CSS increases are capped at 50% of the initial rate over 12 years from the generating plant's operation date, providing cost predictability. Additional surcharges apply only when GEOA usage exceeds contracted demand, reducing linearly over four years to zero, with exemptions mirroring CSS, easing the burden for compliant consumers.

Standby charges, set at 125% of the normal tariff, are imposed when GEOA consumers draw unscheduled power from the DISCOM due to generator or transmission outages, but are waivable with advance notice before the Day Ahead Market closure (D-1 day) or if alternative arrangements are made. Banking facilities (Regulation 13.6) allow surplus green energy injection into the grid within a billing cycle, adjustable at 8% charges (in kWh), with peak, normal, and off-peak period distinctions; unutilized energy lapses at cycle-end, qualifying for Renewable Energy Certificates (RECs). Scheduling charges are ₹2,000/day for short-term and per tariff orders for long/medium-term, while a payment security mechanism mandates an irrevocable Letter of Credit or Bank Guarantee for two months' charges (long/medium-term) or full-period advance payment (short-term). Relinquishment charges (Regulation 13.8) vary: long-term consumers pay 66% of charges for stranded capacity if notice is short, medium-term pay for 30 days or relinquishment period, and short-term pay for two days post-cancellation. These charges incentivize adoption while ensuring grid cost recovery, though the banking lapse may limit surplus utilization unless REC uptake is streamlined.

Annexures and Procedures: Operational Details

The GEOA Regulations embed operational specifics within their framework, enhancing execution clarity. The SNA varies by access type: SLDC for short-term, STU for medium- and long-term, and DISCOMs for intra-distribution cases, with Regulation 10 detailing the 15-day processing timeline (T0 to T0+15).

Day-ahead transactions (Regulation 11) require applications by 13:00 hours the previous day, with congestion checks and approval by 15:00 hours, ensuring real-time grid alignment. Metering (Regulation 15) mandates four-quadrant ABT-compliant meters for ≥ 1 MW loads and Special Energy Meters for < 1 MW, adhering to CEA standards, with regular maintenance and inspection by authorized personnel. Regulation 20 prohibits denial without a hearing, with disputes resolved by the SNA and appeals to DERC within 30 days, adjudicated within three months, ensuring procedural fairness. Regulation 18 mandates SLDC to host real-time GEOA data online, including consumer status and system metrics, fostering transparency. These provisions, while robust, assume digital and technical capacity among stakeholders, potentially necessitating support for smaller consumers.

Conclusion

The *Delhi Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2024* herald a transformative era for Delhi's energy landscape, embedding renewable energy into its urban fabric with a forward-thinking policy framework. By delineating clear eligibility criteria, categorizing access durations, and establishing a meticulous application process, DERC ensures that consumers and captive generators can harness green energy efficiently and equitably. The financial framework—featuring exemptions from cross-subsidy and additional surcharges, banking facilities, and calibrated charges—strikes a balance between incentivizing adoption and maintaining grid viability, aligning with RPO mandates and national renewable goals. The emphasis on long-term GEOA priority and detailed operational guidelines underscores a commitment to sustained clean energy integration.

However, the success of this ambitious regime hinges on proactive collaboration among the Central Nodal Agency, State Nodal Agencies (SLDC/STU), and DISCOMs to execute timelines, upgrade infrastructure, and support consumers with metering and REC mechanisms. Addressing potential gaps—such as enhancing REC accessibility for lapsed banked energy or mitigating initial compliance costs—could further bolster its impact. With effective implementation, Delhi stands poised to set a national benchmark for urban renewable energy integration, reducing its carbon footprint while fostering a resilient, sustainable energy future.

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Warm Regards,

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