Swift e-Bulletin

Swift e-Bulletin
Edition 28/21-22
Week – October 11th to October 15th

Quote for the week:

"Freedom is the freedom to say that two plus two make four. If that is granted, all else follows"

- George Orwell

Introduction

We welcome you to our weekly newsletter!

The 'Swift e-Bulletin' - weekly newsletter, covers all regulatory updates and critical judgements passed during the week. We hope that you liked our previous editions and found it to be of great value in its content. We want this newsletter to be valuable for you so, please share your feedback and suggestions to help us improve.

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Securities and Exchange Board of India ("**SEBI**"), and critical judgements and orders passed by the National Company Law Tribunal **("NCLT")**, SEBI and High Court.

The Regulatory authorities provided various updates/relaxations, some of which being:

- **SEBI issues Revised Formats for Limited Review/ Audit Report for issuers of nonconvertible securities;**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of October 11, 2021 to October 15, 2021.

Thank you,
Swift team

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REGULATORY UPDATES

SEBI UPDATES

1. **SEBI issues Revised Formats for Limited Review/ Audit Report for issuers of nonconvertible securities vide circular dated October 14, 2021.**

- SEBI Vide notification dated September 07, 2021, Regulation 52 of the SEBI (Listing Obligations and Disclosure Requirements), Regulations 2015 ('Listing Regulations') were amended, inter-alia, mandating entities that have listed nonconvertible securities to disclose financial results on a quarterly basis, including assets & liabilities and cash flows as well as requiring certain changes in the line items in the financial results. Accordingly, this circular provides the revised formats for reporting of financial information and limited review report.

- Changes have been proposed to various formats as mentioned below:

  - *Formats for Limited Review Report for quarterly standalone financial results for entities other than Banks, Non-Banking Financial Company ("**NBFCs**") given in **Annex I** to the circular;*
  - *Format for Limited Review Report for quarterly standalone financial results for Banks and NBFCs. given in **Annex II** to the circular;*
  - *Format for Audit Report for quarterly standalone financial results for entities other than Banks, NBFCs given in **Annex III** to the circular;*
  - *Format for Audit Report for quarterly standalone financial results for Banks and NBFCs given in **Annex IV** to the circular;*
  - *Format for Audited Annual consolidated Financial Results for entities other than Banks, NBFCs given in **Annex V** to the circular;*
  - *Format for Audited Annual consolidated Financial Results for Banks and NBFCs given in **Annex VI** to the circular;*

- Insurance companies shall disclose limited review/audit reports as per the formats specified by IRDAI.

- This circular shall come into immediate effect and supersedes the earlier circulars dated November 27, 2015 and August 10, 2016 issued to listed entities for disclosure of financial results that have listed non-convertible debt securities and non-convertible redeemable preference shares.

  To read the Circular in detail, please click here.

2. **SEBI streamlines the process of issuance of SEBI Complaints Redress System ("SCORES") Authentication for companies intending to list their securities on SEBI recognized stock exchanges vide Circular dated October 14, 2021.**

- SEBI had directed all listed companies and SEBI registered intermediaries (excluding Stock Brokers and Depository Participants) to send their details as per Form-A and Form-B respectively , annexed to the SEBI Circular dated December 18, 2014, to SEBI in hard copy and by email to scores@sebi.gov.in in order to obtain SCORES user id and password for redressing investor grievances on SCORES.

- In partial modification to the above circular, a circular dated August 02, 2019 was issued, automating the generation of SCORES credentials for all new SEBI registered intermediaries (except brokers and depositories) and thereby dispensing with the requirement of sending Form-B to SEBI.

- SEBI has now decided to introduce an online mechanism for obtaining SCORES credentials for all "companies intending to list their securities on SEBI recognized stock exchanges". The online form can be accessed on the SCORES website www.scores.gov.in. This has been done as part of SEBI's green initiative and to streamline the redressal of investor grievances against companies before listing.

- Companies shall attach a declaration, with the online form, on the letter head of the company signed by the Compliance Officer, as under:

  - *Companies intending to list on Main Board: A Declaration that the Draft Red Herring Prospectus ("**DRHP**") has been submitted with SEBI*
  - *Companies intending to list on SME/Debt Platform of stock exchange: A Declaration that an application to list its securities has been submitted with the stock exchange/in-principal approval to list its securities has been obtained from the stock exchange.*

- The SCORES credentials shall be sent to the e-mail id of the Compliance Officer/Dealing Officer as provided in the online form and the companies are no longer required to submit physical copy of Form-A or e-mail the same to SEBI, as provided in Circular dated December 18, 2014

  To read the Circular in detail, please click here.

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JUDGEMENTS/ ORDERS

NCLT

1. **National Company Law Tribunal accepts modified resolution plan filed by Resolution Professional ("RP") for Corporate Insolvency Resolution Process ("CIRP") filed against M/s. Bohra Industries Limited**

NCLT, Jaipur Bench **("Tribunal")** admits the application for modification of resolution plan filed by Mr. Naresh Verma **("Resolution Professional")** under section 31 of the Insolvency and Bankruptcy Code, 2016 **("IBC")** under Corporate Insolvency Resolution Process **("CIRP")** initiated against M/s Bohra Industries Limited **("Corporate Debtor").**

The Financial Creditor had filed an application under Section 7 of the Code seeking initiation of CIRP against the said corporate debtor. Pursuant to the public announcement made under CIRP, claims were received from 2 financial creditors, 17 operational creditors, 6 workmen and authorized representatives of workmen & employee.

Due to various logistics reasons, the members of Committee of creditors **("CoC")** deferred the consideration of resolution plan for modification/updating of plan by Indian Potash Limited **("IPL")** and submission of plan by other prospective Resolution Applicants. Further, Tribunal vide its order dated had extended the CIRP period by 60 days beyond 270 days. The reconstituted CoC approved the revised resolution plan submitted by the Consortium with 100% votes.

Basis the averments made by learned counsels for the Resolution Professional and the Resolution Applicant, Tribunal resolved to ascertain as to whether requirements of Section 30(2) of the Code and its regulations made thereunder, had been complied with or not.

Based on the facts presented, Tribunal was satisfied the resolution plan fulfills all the requirements of regulation 38 and 39 of the CIRP regulations and RP has submitted the resolution plan of Resolution applicant, as approved by the CoC, along with the compliance certificate in accordance to the requirements of Regulation 39 (4) of the CIRP regulations. and approves the resolution plan, as approved by the CoC and submitted by the Consortium and declared that the same is binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt is due in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and the other stakeholders involved in the resolution plan. Tribunal further directed Resolution Applicant to obtain the approval of the Competition Commission of India within a period of one year of approval of this resolution plan by this Tribunal.

To read the order in detail, please click here.

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SEBI

1. **SEBI disposes the adjudication proceeding against BP Fintrade for alleged violation of provisions of SEB (PFTUTP) regulations.**

Securities and Exchange Board of India ("**SEBI**") received a complaint, alleging violations of Securities Laws in the scrip of Halonix Limited (Now known as 'Phoenix Lamps Limited') **("Company")** and conducted investigation to examine whether there were any violations in the provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (**"PFUTP Regulations"**) during the investigation period.

During the investigation, SEBI observed that the average traded volume in the scrip was comparatively high during the investigation period. It was further observed that certain entities including BP Fintrade Private Limited (**BP Fintrade**) manipulated the price of the scrip of Company by significantly contributing to the price rise of the scrip of Company through irregular trades and also entered into self-trades on multiple days during the investigation period.

The Adjudicating Officer (**"AO"**) issued Show Cause Notice (**"SCN"**) the BP Fintrade, as to why the investigation should not be carried to which the BP Fintrade provided on the responses and personal hearing opportunity was also provided. The AO analyzed the facts of the case and observed that only few instances of self-trades, which add up to a miniscule percentage of total traded market volume on BSE, cannot be considered to be fraudulent in nature, unless supporting facts and circumstances leading to a manipulative intent behind these trades are also presented. Further, no evidence of a manipulative or fraudulent scheme has been presented in investigation. Accordingly taking into account the aforesaid findings, the adjudication proceedings against BP Fintrade was disposed of without imposition of any penalty.

To read the order in detail, please click here

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HIGH COURT

1. **Morgan Securities and Credits Private Limited files an appeal challenging the Order passed by the Delhi High Court under Section 9 of the Arbitration and Conciliation Act, 1996**

Morgan Securities and Credits Private Limited	**Appellant**
Ganesh Benzoplast Limited	**Respondent**

Date of Judgement: October 12, 2021

Morgan Securities and Credits Private Limited filed the present appeal challenging the order passed by the Single Judge of Delhi High Court, where the petition filed Appellant under Section 9 of the Arbitration and Conciliation Act, 1996 was dismissed.

The Appellant also seeks a direction to the respondent to restrain it from acting in furtherance of the resolution proposed at Item No. 7 of the Notice of the Annual General Meeting of the Respondent held on September 27, 2021 in any manner whatsoever and to restrain the respondent from transferring any assets and/ or monies to GBL Clean Energy Private Limited and GBL Infra Engineering Private Limited or incurring any obligation/ encumbrance to secure the dues of the said companies in any manner whatsoever.

The present appeal was disposed off basis the statement given by learned counsel for the respondent, where he argued that on instructions of Ms. Iti Sharma, Advocate-on-record states that in execution proceedings, the appellant shall be at liberty to execute the arbitral award against both the judgment debtor as well as the wholly owned subsidiaries, including GBL Chemical Limited. The statement made by learned counsel for respondent is accepted by this Court and the respondent is held bound by the same.

To read the Judgement in detail, please click here.

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2. Dispute arises between parties over Aircraft Charter Agreements (ACAs)

Airone Charters Private Limited	Petitioner
Jetsetgo Aviation Services Private Limited	Respondent

Date of Judgement: October 12, 2021

Airone Charters Private Limited, claims to be an intermediary, which arranges for aircraft charters for its clients, from third parties and the respondent provides charter flights to its customers.

Three Aircraft Charter Agreements ('**ACAs**') were executed between the petitioner and the respondent. Disputes arose and was referred to arbitration. The Aircraft, to which the ACAs related were – Legacy 650 Tail Number VT-AOK, Legacy 650 Tail Number VT-AOL and Cessna XLS Tail Number VT-AON, where each agreement related to one aircraft.

Jetsetgo Aviation Services Private Limited, being the respondent in the present case, had agreed to charter the aircraft covered by the agreement, belonging to third parties, through the petitioner, for the period of one year.

The petitioner had invoked arbitration and issued notice to the respondent under Section 21 of the Arbitration and Conciliation Act, 1996, where the petitioner suggested that its claims be referred to the arbitral tribunal, which was already seized of the disputes between the petitioner and the respondent, albeit at the instance of the respondent. The respondent objected and therefore the petitioner approached the Court under Section 11(6) of the Arbitration and Conciliation Act, 1996 for referring the claims of the petitioner to the learned arbitral tribunal.

The present petition stands allowed on following terms:

i. The letter from the petitioner to the respondent, shall be treated as a notice of arbitration, appointing the petitioner's arbitrator, to arbitrate on the claims of the petitioner.
ii. The respondent is directed to appoint its nominee arbitrator within 30 days of receipt, by the respondent, of an electronic copy of this judgment.
iii. The two learned Arbitrators would, thereafter, proceed to appoint the presiding arbitrator.

To read the Judgement in detail, please click here.

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+91 22 6669 5000

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About Swift

Swift India Corporate Services LLP ("Swift") (Formerly known as SwiftIndiaInc Corporate Services Private Limited) established in the year 2005, is an associate entity of Nishith Desai Associates — Legal & Tax Counseling Worldwide (legal and tax consulting firm).

We are a team of professionals with rich corporate, legal and secretarial backgrounds. We are a premier corporate compliance firm that caters to the needs and demands of our global clients. Swift aims to provide quick and pragmatic corporate solutions alongside high-quality compliances.

Swift India Corporate Services LLP

Regd. Office: 91-92 B, Mittal Court, Nariman Point, Mumbai 400 021, India
LLPIN: AAH-4705, registered under the Limited Liability Partnership Act, 2008
Tel +91 22 6669 5000, Fax +91 22 6669 5001

www.swiftindiallp.com