Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin

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Week – November 27th to December 2nd

Quote for the week:

"Either write something worth reading or do something worth writing."

– *Benjamin Franklin (American author)*

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 International Financial Services Centres Authority ("IFSCA")

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

- SEBI vide circular dated December 01, 2023 issued extension of timeline for implementation of provisions of circular SEBI /HO /OIAE /IGRD /CIR /P /2023 / 156 dated September 20, 2023 on Redressal of investor grievances through the SEBI Complaint Redressal (SCORES) Platform and linking it to Online Dispute Resolution platform.

- IFSCA vide Circular dated November 22, 2023 issued Procedure for implementation of Section 12A of "The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005" and Section 51A of Unlawful Activities (Prevention) Act, 1967

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week November 27th to December 02nd.

Thank you,
Swift team

REGULATORY UPDATES

SEBI

1. **SEBI vide circular dated December 01, 2023 issued extension of timeline for implementation of provisions of circular SEBI /HO /OIAE /IGRD /CIR /P /2023 / 156 dated September 20, 2023 on Redressal of investor grievances through the SEBI Complaint Redressal (SCORES) Platform and linking it to Online Dispute Resolution platform**

- The SEBI circular with ref. no. SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023 related to workflow of processing of investor grievances by entities and framework for monitoring and handling of investor complaints by the designated bodies were required to come into force with effect from December 04, 2023.

- Further, the designated bodies referred to in the Schedule II of circular SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023 were required to apply for SCORES authentication and/or for Application Programming Interface (**"API"**) integration with SCORES within such period so as to ensure that designated bodies can comply with provisions of the said circular by December 04, 2023 and onwards.

- It has now been decided to extend the effective date of implementation of above said provisions to April 01, 2024 however the entities shall continue to submit the Action Taken Report (**"ATR"**) on SCORES within 21 calendar days from the date of receipt of the complaint as directed in circular SEBI/HO/OIAE/IGRD/CIR/P/2023/156 dated September 20, 2023.

- This Circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market

To read the circular in detail, please click here.

IFSCA

1. **IFSCA vide Circular dated November 22, 2023 issued Procedure for implementation of Section 12A of "The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005" and Section 51A of Unlawful Activities (Prevention) Act, 1967.**

- With reference to communication dated 21st April 2023 to all Regulated Entities in GIFT-IFSC regarding Procedure for implementation of Section 51A of the Unlawful Activities (Prevention) Act, 1967 and subsequent circulars on the said subject dated 20th October 2023 on Procedure for implementation of Section 12A of "The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005"

- In this regards, Department of Revenue, Ministry of Finance, has issued an Office Memorandum dated 20th October 2023 (herein referred as 'OM'), on procedure for implementation of Section 12A of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 ('Act'), wherein it has been clarified that the sanctions against any person or entity shall be imposed 'without delay' i.e. on the same business day but not later than 24 hours in any case.

- All Regulated Entities in GIFT-IFSC are advised to adhere to the aforesaid OM dated 20th October 2023.

To read the circular in detail, please click here.

2. **IFSCA vide circular dated November 28, 2023 issued allocation of Indian Financial System Code (IFSC code) to IBUs**

- IFSCA in consultation with the Reserve Bank of India, have decided to allocate IFSC codes to IBUs.

- IBUs are required to follow the following procedure for obtaining IFSC code: -

  - IBUs shall make an application for issuance/deletion/modification of IFSC code to IFSCA. The details required for making such an application is given under Annexure – 1 of the said circulars.

  - IFSCA along with the applicable conditions shall communicate to the IBU whether their application for issuance/deletion/modification has been successful or not.

  - The IFSC code issued to the IBUs shall be used only for the remitters to undertake cross border remittances to IBUs for mentioning in the relevant field of cross border payment systems message where IFSC code is a mandatory requirement.

  - The IFSC code issued to the IBUs shall not be used in domestic payment systems. In order to prevent any confusion, IBUs shall inform their parent banks to ensure that these codes are not advertised to the public.

  - In case of closure of an IBU, the concerned IBU shall file an application for deletion of IFSC code to IFSCA prior to closure of the IBU.

- The application may be submitted by email to banking-queries@ifsca.gov.in (along with the data in Annexure 1 included in an excel sheet) followed by physical copy of the same.

- The application should be accompanied by a covering letter making the request signed by the IBU head.

- Any queries in this regard may be submitted through banking-queries@ifsca.gov.in

To read the circular in detail, please click here.

JUDGEMENTS/ ORDERS

SEBI ORDER

1. Adjudication order in the matter of inspection of Stock Holding Corporation of India Limited.

- The Securities Exchange Board of India ("**SEBI**") had conducted inspection of documents and other records of Stock Holding Corporation of India Limited (hereinafter referred as "**Noticee**"), a public limited company which was granted approval to as a Designated Depository Participant (**"DDP"**) by SEBI on April 11, 2014. The purpose of inspection was to verify the possible violations of provisions of SEBI Act, 1992, SEBI (Foreign Portfolio Investors) Regulations, 2019 (**"FPI Regulations"**), provisions of operational guidelines to FPIs, DDPs and SEBI Circulars by the Noticee.

- Consequent upon the inspection, the following violations were observed:

  - Non-maintenance of records and documents.
  - Registration of Ineligible FPIs.
  - Discrepancies in the DDP Manual.
  - Non-compliance w.r.t KYC form and Demat form.
  - Non-compliance w.r.t fit and proper check.
  - Failure to segregate activities.
  - Failure to maintain necessary infrastructure.
  - Delay in submitting monthly fees report.
  - Delay in forwarding audit report on internal controls.

- SEBI initiated the Adjudication proceedings and the Adjudicating Officer ("**AO**") was appointed to inquire into and adjudge for the aforesaid alleged violations by the Noticee. Accordingly, a show cause notice was issued to the Noticee to show cause as to why an inquiry should not be held and penalty be not imposed under section 15EB of the SEBI Act for the aforesaid alleged violations.

- After conducting the inspection of Documents, the AO is of the opinion that the irregularities on the part of the Noticee viz. regarding non-maintenance of records and documents, registration of Ineligible FPIs, discrepancies in DDP manual, non-compliance w.r.t KYC form and Demat form and fit and proper check, failure on its part to segregate activities and maintain necessary infrastructure and delay in forwarding audit report on internal controls does not absolve if from penalty. The irregularities on the part of the Noticee shows that it has failed in its fiduciary duties owed to its clients.

- After considering the facts and the observations of the case, the AO imposed penalty of INR 16,00,000/- on the Noticee for violation of various provisions of SEBI Act and Circular.

To read the order in detail, please click here.

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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.

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