Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin

Week – April 15th to April 20th

Quote for the week:

"Be persistent and resilient in the face of challenges, for they are the building blocks of success."

– Ratan Tata *(Tata Group, Chairperson)*

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 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**"), Reserve bank of India(**"RBI"**), Insolvency and Bankruptcy Board of India ('**IBBI**') International Financial Services Authority ("**IFSCA**") and Orders.

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

- **SEBI vide Circular dated April 18, 2024 issued standardization of the Private Placement Memorandum (PPM) audit report.**

- **IFSCA vide Circular dated April 18, 2024 issued authorization to import of gold and silver by Indian Banks through India International Bullion Exchange IFSC Limited (IIBX).**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements/ orders issued during the week of April 15th to April 20th.

Thank you, Swift team

SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

1. SEBI vide Circular dated April 18, 2024 issued standardization of the Private Placement Memorandum (PPM) audit report.

- SEBI vide the said Circular made it is mandatory for Alternative Investment Funds ("**AIFs**") to carry out an annual audit of compliance with the terms of Private Placement Memorandum ('**PPM**').

- In terms of Master Circular, AIFs are required to submit Annual PPM Audit Reports to the trustee or Board of Directors or Designated Partners of the AIF, Board of Directors or Designated Partners of the Manager and SEBI, **within 6 months from the end of the Financial Year**.

- Further to have uniform compliance standards and for ease of compliance reporting, standard reporting format for PPM Audit Report applicable to various categories of AIF has been prepared in consultation with pilot Standard Setting Forum for AIFs ('**SFA**').

- The reporting format shall be hosted on the websites of the AIF Associations which are part of SFA **within 2 working days of issuance of this Circular**. The Associations shall assist all AIFs in understanding the reporting requirements and in clarifying or resolving any issues which may arise in connection with reporting to ensure accurate and timely reporting.

- The PPM audit report shall be submitted to SEBI by AIFs online on the SEBI Intermediary Portal (SI Portal) as per the aforesaid format.

- All other provisions with respect to the filing of the PPM audit report specified in the Master Circular shall remain unchanged. The reporting mentioned in Circular shall be applicable for PPM audit report to be filed for the financial year ending March 31, 2024 onwards.

- Further to keep pace in with the fast-changing landscape of AIF industry and for policy and supervision purposes, the aforesaid reporting format shall be reviewed periodically by pilot SFA in consultation with SEBI.

To read the Circular in detail, please click here.

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

1. **IFSCA vide Circular dated April 18, 2024 issued authorization to import of gold and silver by Indian Banks through India International Bullion Exchange IFSC Limited (IIBX).**

   - RBI through its Circular dated February 09, 2024, had allowed Indian banks authorized to import gold/silver to act as special category clients (as defined in the IFSCA Circular dated December 11, 2023) of the IIBX.

   - Accordingly, it has been decided to permit the Indian Banks, authorized by the RBI to import gold/silver, to directly access the trading system of the IIBX, without the need for a bullion trading member, for undertaking such import on behalf of their clients.

   - However, such banks (referred to as 'SCC Banks' hereafter in this Circular) shall utilize the services of an IFSC Banking Unit ('**IBU**') registered as a bullion clearing member for clearing of their purchase transactions.

   - Further SCC Banks shall comply with all the other applicable norms specified in IFSCA (Bullion Exchange) Regulations, 2020, Operating Guidelines specified by IFSCA on August 25, 2021 and other regulatory requirements as may be specified, and amended, by IFSCA and IIBX from time to time. They shall also comply with the Code of Conduct that may be issued by IIBX.

To read the Circular in detail, please click here.

2. **IFSCA vide Notification dated April 15, 2024, notified International Financial Services Centers Authority (Payment Services) (Amendment) Regulations, 2024.**

   - IFSCA vide the said Notification has bought amendment under IFSCA (Payment Services) Regulation, 2024.

   - IFSCA has amended regulation 2 (1) (l) as below: -

   - "**escrow service**" means the service provided by a payment service provider, under an agreement, whereby money is held by such payment service provider in an escrow account with an IFSC Banking Unit ('**IBU**') or an IFSC Banking Company ('**IBC**') for and on behalf of one or more parties that are in the process of completing a transaction"

To read the Notification in detail, please click here.

RESERVE BANK OF INDIA (RBI)

1. **RBI vide Circular dated April 15, 2024 issued circular on hedging of gold price risk in overseas markets.**

   - Earlier, Resident entities were permitted to hedge their exposure to price risk of gold on exchanges through derivatives in the International Financial Services Centre ('**IFSC**') recognized by IFSCA.

   - Further RBI, through this Circular, permitted resident entities to hedge their exposures to price risk of gold using OTC derivatives in the IFSC in addition to the derivatives on the exchanges in the IFSC subject to the stipulations set out in the Master Direction – Foreign Exchange Management (Hedging of Commodity Price Risk and Freight Risk in Overseas Markets) Directions, 2022, as amended from time to time.

   - The purpose of RBI in doing so is to provide further flexibility to resident entities to hedge their exposures to price risk of gold.

To read the Circular in detail, please click here.

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI)

1. **IBBI vide issued Circular dated April 18, 2024 on partial modification to Circular no. IBBI/LIQ/61/2023 dated 28th September2023 titled 'Clarification w.r.t. Liquidators' fee under clause (b) of sub-regulation (2) of Regulation 4 of IBBI (Liquidation Process) Regulations, 2016'.**

    - IBBI issued a Circular dated 28th September 2023 titled 'Clarification w.r.t. Liquidators' fee under clause (b) of sub-regulation (2) of Regulation 4 of IBBI (Liquidation Process) Regulations, 2016' ('the circular').

    - Further vide order dated 04th April 2024, of the Hon'ble Bombay High Court in the matter of Amit Gupta vs. Insolvency and Bankruptcy Board of India & Union of India while confirming the validity of remaining paras of the circular, Paragraph 2.1 ('**Amount Realised**') and Paragraph 2.5 ('**Period for calculation of fee**') have been struck down. Accordingly vide circular dated 28th September 2023 the same has been withdrawn.

    - The IPs who have not submitted any compliance in relation to Circular dated 28th September,2023, are hereby given an opportunity to comply with the remaining parts of the Circular dated 28th September 2023 and inform the status of the same to the IBBI electronically on the website of IBBI on or before 31st May 2024.

To read the Circular in detail, please click here.

SEBI ORDERS

1. Adjudication order in the matter of intensive Fiscal Services Private Limited

SEBI conducted inspection of activities carried out by Intensive Fiscal Services Private Limited (hereinafter referred as "**Noticee 1**") as a merchant banker for alleged non-compliances of various SEBI Regulations by Noticee 1 and its Chairman, MD and former Compliance officer (hereinafter referred as "**Noticee 2**") (collectively known as "**Noticees**").

During the investigation, the following allegations levelled against the Noticees:

- The KMPs of the Noticee 1 were not possessing the necessary certificates as required under SEBI provisions;
- Noticee 1 had failed to ensure that the KMPs obtain the requisite certificates within the stipulated time as mentioned the provisions;

SEBI initiated the Adjudication proceedings and the Adjudicating Officer ("AO") was appointed to inquire into and adjudge for the aforesaid alleged violations by the Noticees. 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 15HB of the SEBI Act for the aforesaid alleged violations.

After considering all the facts and the circumstances of the case, and the material available on record, the AO was of the view that no quantifiable figures were available to assess the disproportionate gain or unfair advantage made as result of such non-compliance by the Noticees. However, there has been violation of SEBI Regulations. Hence, AO imposed penalty of INR 3,00,000/- on the Noticees for violation of various provisions of said regulations to be paid jointly and severally.

To read the Order in detail, please click here.

2. Adjudication Order in the matter of Hira Automobiles Limited

SEBI conducted examination in the matter of Hira Automobiles Limited (hereinafter referred to as "Noticee"), for the alleged failure to submit quarterly compliance report to the Exchange and to report the outcome of the delisting process to SEBI.

In view of the above, 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 15HB of the SEBI Act for the aforesaid alleged violations.

During the investigation by the AO, the following allegations were levelled against the Noticee:

- Noticee failed to comply with Minimum Public Shareholding (MPS) requirement within the specified timelines as per applicable regulations;

- Noticee had not complied with the SEBI order with respect to report the outcome of the delisting process to SEBI;

After considering all the facts and the circumstances of the case, the AO is of the view that the material does not quantify any disproportionate gains or unfair advantage made by Noticee and the losses, if any, suffered by the investors. However, the AO is of the view that it is of utmost importance that every company takes all necessary steps to comply with all the provisions, Rules and Regulations as laid down by the Regulator. The very purpose of the said provisions is to deter wrong-doing and to promote ethical conduct in the securities market. Hence, the AO imposed penalty of INR 14,00,000/- on the Noticee for violation of various provisions of said regulations.

To read the Adjudication Order in detail, please click here.

DISCLAIMER:

The contents of this newsletter should not be construed as a legal opinion. View detailed disclaimer.

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Call us to explore a topic or let us answer your questions

About Swift

Swift India Corporate Services LLP (“Swift”) (Formerly known as SwiftIndiaInc Corporate Services Private Limited) established in the year 2005, is an affiliate entity of Nishith Desai Associates (“NDA”), a preeminent India centric law firm. We are a premier and boutique firm specialized in meeting with the global standard corporate governance aspirations of our clients operating in India.

Our team comprises of professionals with a prolific corporate, legal and secretarial compliance background. We aim to provide pragmatic and business-oriented solutions in governance and compliance matters, through a unique holistic approach that blends our expertise and decades of experience in compliance and regulatory areas.

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