Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin

Week – May 06th to May 11th

Quote for the week:

"Life is like riding a bicycle. To keep your balance, you must keep moving"

– Albert Einstein *(Theoretical physicist)*

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 Ministry of Corporate Affairs(**"MCA"**) Securities and Exchange Board of India ("**SEBI**"), Ministry of Corporate Affairs Reserve bank of India(**"RBI"**), International Financial Services Authority ("**IFSCA**"), Insolvency and Bankruptcy Board of India("**IBBI**") and SEBI Orders ("**Orders**")

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

- **SEBI vide Circular dated May 06, 2024 allows entities to use e-KYC Aadhaar Authentication services of UIDAI in Securities Market as sub-KUA**

- **MCA vide Circular dated May 07, 2024, issued relaxation on additional fees and extension of last date of filing of Form No. LLP BEN-2 and LLP Form No. 4D under the Limited Liability Partnership Act, 2008.**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements/ orders issued during the week of May 06th to May 11th.

Thank you, Swift team

SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

1. SEBI vide Circular dated May 06, 2024 allows entities to use e-KYC Aadhaar Authentication services of UIDAI in Securities Market as sub-KUA

- SEBI vide its Circular dated October 12, 2023 had provided provision for the adaptation of Aadhaar based e-KYC process and e-KYC Authentication facility for Resident Investors under Section 11A of the Prevention of Money Laundering Act, 2002 in securities market as sub-KUA and on-boarding process of sub-KUA by UIDAI .

- Department of Revenue, Ministry of Finance ('**DoR-MoF**') issued Notification notifying entities to undertake Aadhaar authentication service of UIDAI under Section 11A of the Prevention of Money Laundering Act, 2002.

- DoR-MoF has vide Gazette Notification dated April 30, 2024, notified one entity which is permitted to use Aadhaar authentication services of UIDAI under Section 11A of the Prevention of Money-laundering Act, 2002.

- The above-mentioned entity shall follow the process as detailed in SEBI Circular dated October 12, 2023 and as may be prescribed by UIDAI from time to time. The KUAs shall facilitate the on-boarding of the entity as sub-KUA to provide the services of Aadhaar authentication with respect to KYC

To read the Circular in detail, please click here.

2. SEBI vide Circular dated May 07, 2024 issued periodic reporting format for Investment Advisers.

- Investment Advisers Administration and Supervisory Body ('**IAASB**') is a body recognized by SEBI for the purpose of administration and supervision of Investment Advisers ('**IAs**') under Regulation 14 of Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 ('**IA Regulations**') which is also responsible for obtaining periodic report from IAs.

- Consultative process for development of periodic reporting format

  - On recommendation of Industry Standards Forum ('**ISF**'), SEBI has provided the standardized periodic reporting format for submission of periodic report by IAs. The periodic reporting format is enclosed as Annexure I in the given Circular.

- Periodicity of reporting

  - Half-yearly periodic report for period ending on September 30 and March 31 of every financial year are required to be submitted by IAs.

- Timelines for submission of periodic reports

  - IAASB is directed to make necessary arrangements for obtaining periodic reports and also to issue Circular to IAs in this regard within thirty days from the date of issuance of this Circular.

- The timelines for submission of periodic reports by IAs shall be as under:

    - ➢ Within a period of fifteen days from the date of issuance of Circular by IAASB for the half-yearly period ending on March 31, 2024.
    - ➢ Within seven working days from the end of the half-yearly period for the subsequent half-yearly periods for which details are to be furnished.

- The said Circular shall be applicable to all Investment Advisers and IAASB.

- The said Circular shall come into force with immediate effect.

To read the Circular in detail, please click here.

MINISTRY OF CORPORATE AFFAIRS (MCA)

1. **MCA vide Circular dated May 07, 2024, issued relaxation on additional fees and extension of last date of filing of Form No. LLP BEN-2 and LLP Form No. 4D under the Limited Liability Partnership Act, 2008.**

   - MCA has notified Limited Liability partnership (Significant Beneficial Owners) Rules, 2023 G.S.R no 832(E) dated 09.11.2023 and has prescribed E-form LLP BEN-2 to file Return to the Registrar in respect of declaration under Section 90 of the Companies Act, 2013.

   - Similarly, MCA has notified Limited Liability Partnership (Third Amendment) Rules, 2023 vide G.S.R no 803(E) dated 27.10.2023 and prescribed E-form LLP Form no. 4D to filed Return to the Registrar in respect of declaration of beneficial interest in contribution received by the LLP.

   - Further due to transition of MCA-21 form V2 to V3 and to promote compliance on part of reporting Limited Liability Partnership it has been decided by competent authority that LLPs may file Form LLP BEN-2 and LLP Form no.4D, without payment of any further additional fees upto July 07, 2024.

To read the Circular in detail, please click here.

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

1. IFSCA vide Circular dated May 08, 2024 issued additional requirements for carrying out the permissible activities by Finance Company as a Lessor under "Framework for Ship Leasing"

- IFSCA vide the said Circular has drawn reference to the International Financial Services Centres Authority (Finance Company) Regulations, 2021 and the 'Framework for Ship Leasing' dated August 16, 2022, as amended from time to time.

- Further, IFSCA hereby specifies that an applicant under the Ship Leasing Framework or a lessor, who has obtained a Certificate of Registration (CoR) under the aforesaid regulations, shall not undertake transactions which involves transfer, in any form, of the ownership and / or leasehold right of a ship or ocean vessel from a person resident in India (as defined in clause v of section 2 of the Foreign Exchange Management Act, 1999) to an entity set up in the IFSC, for the purpose of providing services solely to person resident in India.

- The said applicant or lessor may acquire a new ship or ocean vessel or enter into a new leasehold right contract with person resident outside India so as to cater to person resident in India.

- The said Circular shall be applicable to all finance companies registered with the IFSC for undertaking ship leasing activity.

To read the Circular in detail, please click here.

RESERVE BANK OF INDIA (RBI)

1. **RBI vide Notification dated May 08, 2024 issued directions on margin for Derivative Contracts.**

   - RBI issued these Directions on margin for Derivative Contracts after reviewing the instructions issued earlier on it that allowed posting and collection of margin for permitted derivative contracts between a person resident in India and a person resident outside India.

   - RBI, through this Direction, permitted Authorized Dealers to post and collect margin, in India and outside India, for a permitted derivative contract entered into with a person resident outside India and receive and pay interest on such margin and also to post and collect margin, in India and outside India, for derivative transactions of their overseas branches and IFSC Banking Units and receive and pay interest on such margin.

   - Accordingly, it prescribes, in the given Directions, the form of margin posted and collected in India and outside India separately which includes freely convertible foreign currency.

   - The said Direction shall come into force with immediate effect and in suppression of the A. P. (DIR Series) Circular No. 10 dated February 15, 2021 (earlier instructions on the matter).

To read the Notification in detail, please click here.

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI)

1. **IBBI has issued Circular dated May 09, 2024 on uploading of judicial orders related to insolvency proceedings by Insolvency Professionals.**

   - IBBI through this Circular required the Insolvency Professionals (IPs) to upload certain judicial orders pertaining to their respective assignments on their dashboard as prescribed under the Circular.

   - This was on the belief that IPs have the first-time access and information of all the important judicial orders affecting the processes handled by them under the Insolvency and Bankruptcy Code, 2016 (Code).

   - This would also ensure that the important judicial orders which have significant impact on the ongoing processes under the Code are available for facilitation of stakeholders in a timely manner.

   - Few instances of orders required under this Circular to be uploaded are Admission orders, Approval of Resolution Plan order, Liquidation order, Dissolution order etc passed by National Company Law Tribunal (NCLT) / National Company Law Appellate Tribunal (NCLAT) along with certain orders passed by Supreme Court and High Court orders as prescribed under the Circular.

To read the Circular in detail, please click here.

SEBI ORDERS

1. ADJUDICATION ORDER IN THE MATTER OF GDR ISSUE OF WINSOME YARNS LIMITED

SEBI conducted investigation against several Indian companies including Winsome Yarns Limited that had issued Global Depository Receipts ("**GDR**") in overseas markets to ascertain whether there was any violation of SEBI Act, Rules and Regulations thereunder during the period March 01, 2011 to April 30, 2011 (hereinafter referred to as the "Investigation period/IP"). According, in respect of the above investigation, an Adjudication order was passed against Shri Arun Panchariya (hereinafter referred to as the "**Noticee/AP**")

During the investigation, the following two allegations levelled against the Noticee:

- Issuance of GDR in fraudulent manner; and
- Liquidation of GDR;

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.

After considering all the facts and the circumstances of the case, and the material available on record, the AO imposed a penalty of Rs. 25 crores, which was appealed by the Noticee to Securities Appellate Tribunal ("**SAT**"). SAT partly allowed the appeal and remitted the case back to AO to determine the connection of the Noticee with the entities involved in the second leg of transaction and flow of money from sub-accounts to the Noticee.

AO, looked into the facts and circumstance of the case in detailed, establishing the connection of the Noticee with the entities involved imposed a penalty of Rs. 15 crores on the Noticee.

To read the Order in detail, please click here.

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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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