Swift India
CORPORATE SERVICES LLP


**Swift e-Bulletin**

**Week – August $19^{th}$ to August $24^{th}$**

Quote for the week:

## "None can destroy iron, but its own rust can! Likewise, none can destroy a person, but their own mindset can."

– Ratan Tata (Great philanthropist of India)

**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"**).

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

- ❖ **SEBI vide circular dated August 19, 2024, issued Modalities for migration of Venture Capital Funds registered under erstwhile SEBI (Venture Capital Funds) Regulations, 1996 to SEBI (Alternative Investment Funds) Regulations, 2012.**

- ❖ **RBI vide notification dated August 22, 2024 issued on Processing of e-mandates for recurring transactions.**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements/ orders issued during the week of August $19^{th}$ to August $24^{th}$.

**Thank you, Swift team**

## SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

**1. SEBI vide circular dated August 19, 2024, issued Modalities for migration of Venture Capital Funds registered under erstwhile SEBI (Venture Capital Funds) Regulations, 1996 to SEBI (Alternative Investment Funds) Regulations, 2012**

- To provide flexibility to Venture Capital Funds ('**VCFs**') registered under the erstwhile SEBI (Venture Capital Funds) Regulations, 1996 ("**VCF Regulations**"), for migrating to AIF Regulations and to, inter-alia, avail the facility of dealing with unliquidated investments of their schemes upon expiry of tenure. Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 ("**AIF Regulations**") have been amended and notified on July 20, 2024.

- As per Regulation 19 V (1) "Migrated Venture Capital Fund" means a fund that was previously registered as a Venture Capital Fund under the VCF Regulations and subsequently registered under AIF Regulations as a sub-category of Venture Capital Fund under Category I -Alternative Investment Fund, in accordance with the provisions of Chapter III-D of AIF Regulations.

  - Original certificate of registration issued under VCF Regulations.

  - Requisite information as per the format specified in Annexure I.

- While opting for migration to AIF Regulations, VCFs having only schemes whose liquidation period has not expired, shall be subject following conditions –

  - The facility of migration to AIF Regulations shall be available till July 19, 2025.

  - The tenure of scheme(s) of the Migrated VCF, upon migration, shall be determined in the following manner

  - In case a definite tenure was disclosed in the Private Placement Memorandum **("PPM")** of the scheme(s) under the VCF Regulations, such scheme shall continue with the same tenure upon migration.

  - In case a definite tenure was not disclosed in the PPM of the scheme, the residual tenure of the scheme of the Migrated VCF shall be determined prior to the application for migration, with the approval of 75 percent of investors by value of their investment in the scheme.

- VCFs having at least one scheme which has not been wound up post expiry of its liquidation period shall migrate subject to the following condition:

  - Such VCFs may apply for registration as Migrated VCF on or before July 19, 2025, only if the VCF or any of its scheme do not have any pending investor complaint with regard to non-receipt of funds / securities as on the date of the application.

  - One-time additional liquidation period of one year from the date of notification of amendment to AIF Regulation i.e., period till July 19, 2025, shall be available to scheme of the migrated VCF, whose liquidation period (in terms of Regulation 24(2) of VCF Regulations) has expired and is not wound up.

- In cases where schemes of the VCF have been wound up and/or the scheme that has not been wound up has not made any investment, it shall not have flexibility to opt for migration to AIF Regulations.

- As per Regulation 19 X (1) of AIF Regulations an application for seeking registration as a Migrated Venture Capital Fund shall be made to SEBI in following manner.

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

- The said circular shall be applicable to all Alternative Investment Funds, All Venture Capital Funds registered under the erstwhile SEBI (Venture Capital Funds) Regulations, 1996('**VCFs**').

To read the circular in detail, please click here

2. **SEBI vide circular dated August 19, 2024, issued Guidelines for borrowing by Category I and Category II AIFs and maximum permissible limit for extension of tenure by LVFs.**

- SEBI (Alternative Investment Funds) vide circular have amended and notified on August 06, 2024, with respect to (i) norms for borrowing by Category I and Category II AIFs, and (ii) maximum permissible limit for extension of tenure by Large Value Fund for Accredited Investors (**LVFs**).

  **A. Guidelines for borrowing by Category I and Category II AIFs**

- In terms of Regulation 16(1)(c) and Regulation 17(c) of AIF Regulations, Category I and Category II AIFs shall not borrow funds directly or indirectly or engage in any leverage for the purpose of making investments or otherwise, except for borrowing funds to meet temporary funding requirements and day-to-day operational requirements for not more than thirty days, on not more than four occasions in a year and not more than ten percent of the investable funds and subject to such conditions as may be specified by SEBI from time to time.

- In this regard, in order to facilitate ease of doing business and provide operational flexibility, it has been decided to allow Category I and Category II AIFs to borrow for the purpose of meeting temporary shortfall in amount called from investors for making investments in investee companies (**'drawdown amount'**).

- Category I and II AIFs may borrow for the purpose for the purpose of meeting shortfall in drawdown amount, subject to the following additional conditions as specified in the circular.

- Further, all Category I and Category II AIFs shall maintain thirty days cooling off period between two periods of borrowing as permissible under AIF Regulations. The cooling off period of thirty days shall be calculated from the date of repayment of previous borrowing.

  **B. Maximum permissible limit for extension of tenure by LVFs**

- In terms of proviso to Regulation 13(5) of AIF Regulations, a LVF may extend its tenure up to five years subject to the approval of two-thirds of the unit holders by value of their investment in the LVF and the extension in tenure of any existing LVF scheme shall be subject to such conditions as may be specified by SEBI from time to time.

In this regard, the following is specified –

- 7.1. Existing LVF schemes who have not disclosed definite period of extension in their tenure in the PPM or whose period of extension in tenure is beyond the permissible five years, shall align the period of extension in tenure with the requirement as given at para 6 above, within three months from the date of this circular, i.e., on or before November 18, 2024.

- While realigning the period of extension in tenure, LVF schemes shall have the flexibility to revise their original tenure subject to the consent of all the investors of the scheme.

- Such LVF schemes shall submit an undertaking to SEBI on or before November 18, 2024, stating that consent of all the investors of the scheme has been obtained for revising the original tenure.

- The said circular shall be applicable to all Alternative Investment Funds.

To read the circular in detail, please click here

3. **SEBI vide circular dated August 19, 2024 issued amendment to Master Circular for Real Estate Investment Trusts (REITs) dated May 15, 2024 - Review of statement of investor complaints and timeline for disclosure of statement of deviation(s)**

- In order to promote ease of doing business paragraph 4.16.4. of the Master Circular dated May 15, 2024 has been amended and now provision shall be read as follows:

  "The Trustee and the Board of Directors/Governing Body of the Manager shall ensure that all investor complaints are redressed by the Manager in timely manner. Further, the statement as specified in Para 4.16.3. (i.e All complaints including SCORES complaints received by the REIT shall be disclosed on the website of the REIT and also filed with the recognized stock exchange) above shall be placed, on a quarterly basis, before the Board of Directors/Governing Body of the Manager and the Trustee for review."

- The above statement shall be continued to be given till issue proceeds have been fully utilised or the purpose for which these proceeds were raised has been achieved. Such submission to the Stock Exchange(s) shall be made within twenty-one days from the end of each quarter.

- Statement of deviation or variation in the use of proceeds from the stated objects is required to be submitted to the stock exchange(s) on a quarterly basis along with the submission of financial results.

- In order to promote ease of doing business paragraph 4.16.4. of the Master Circular dated May 15, 2024 has been amended and now provision shall be read as follows:

  "The statement specified above, shall be continued to be given till such time the issue proceeds have been fully utilised or the purpose for which these proceeds were raised has been achieved. Such statement shall also be placed before the Trustee and the Board of Directors/Governing Body of the Manager for review. Pursuant to such review, the statement shall be submitted to the stock exchange(s). Such submission to the Stock Exchange(s) shall be made along with the submission of financial results."

- The said circular shall be applicable to all Real Estate Investment Trusts, All Partieas to REITs, all Parties to REITs, all Recognised Stock Exchanges.

- The said circular shall be applicable with immediate effect.

To read the circular in detail, please click here

## RESERVE BANK OF INDIA (RBI)

1. **RBI vide notification dated August 22, 2024 issued on Processing of e-mandates for recurring transactions.**

   - RBI vide circular e-mandate framework prescribed, inter alia, that the issuer shall send a pre-debit notification to the customer at least 24 hours prior to the actual charge / debit to the account.

   - Further reference is also drawn to the Statement on Developmental and Regulatory Policies dated June 07, 2024, wherein it was announced that auto-replenishment of balances in FASTag and National Common Mobility Card (‘**NCMC**’), which are recurring in nature but without any fixed periodicity, would be facilitated under the e-mandate framework.

   - It has been decided to include auto-replenishment of FASTag and NCMC, as and when the balance falls below a threshold set by the customer, under the e-mandate framework. Payments for auto-replenishment, since they are recurring in nature but without any fixed periodicity, will be exempt from the requirement of pre-debit notification.

   - This circular is issued under Section 18 read with Section 10 (2) of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007), and shall come into effect immediately.

   - The said circular shall be applicable to All Scheduled Commercial Banks, including Regional Rural Banks, Urban Co-operative Banks, State Co-operative Banks, District Central Co-operative Banks, Payments Banks, Small Finance Banks, Local Area Banks, Non-bank Prepaid Payment Instrument issuers, Authorised Card Payment Networks, National Payments Corporation of India.

   To read the notification in detail, please click here.

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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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