Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin

Week – February 19th to February 23rd

Quote for the week:

"Believe you can and you're halfway there."

– Theodore Roosevelt *(26th U.S. President)*

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**"), Ministry of Corporate Affairs ("**MCA**"), Reserve Bank of India ("**RBI**"), International Financial Services Authority ("**IFSCA**") and SEBI Judgement.

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

- ❖ **SEBI vide circular dated February 20, 2024 notified Centralization of certifications under Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards (CRS) at KYC Registration Agencies (KRAs)**
- ❖ **MCA vide circular dated February 19, 2024 notified Deployment and usage of Change Request Form (CRF) on MCA – 21 – reg.**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements/ orders issued during the week of February 19th to February 23rd.

Thank you, Swift team

SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

1. SEBI vide circular dated February 20, 2024, notified Centralization of certifications under Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards (CRS) at KYC Registration Agencies (KRAs)

- SEBI circulars and guidance note on FATCA and CRS issued by Department of Revenue, Ministry of Finance dated August 26, 2015, and September 10, 2015 stated that the reporting financial institution shall obtain a self-certification from the client, as part of the account opening documentation, to determine the client's residence for tax purpose.
- The regulators in terms of rule 114G(11)(a) of Income Tax Rules, 1962 inter alia, is required to issue necessary instructions and guidelines to provide the procedure and manner of maintaining the information by the reporting financial institution.
- Considering the feedback received from the stakeholders in securities market, compliance reporting and for ease of doing business, it is decided that the intermediaries, who are RFI, shall upload the FATCA and CRS certificates obtained from the clients onto the system of KRAs with effect from July 01, 2024.
- The existing certifications obtained from clients prior to July 01, 2024 shall be uploaded by the intermediaries onto the systems of KRAs within a period of 90 days of implementation of this circular.
- The onus of obtaining and reporting the FATCA and CRS certification and related compliances shall lie with the respective intermediaries.
- The reasonableness of such certification shall be confirmed by the intermediary based on the information obtained in respect of account opening, including any documentation obtained in accordance with Prevention of Money Laundering (Maintenance of Records) Rules, 2005 and shall update the self-certification, as and when, there is a change reported by the client.
- The KRAs shall develop their systems/mechanism, in co-ordination with each other and shall follow uniform internal guidelines/standards, in consultation with SEBI.
- The said circular shall be applicable to Intermediaries registered with SEBI under Section 12 of the Securities and Exchange Board of India Act, 1992

To read the circular in detail, please click here.

MINISTRY OF CORPORATE AFFAIRS (MCA)

1. **MCA vide circular dated February 19, 2024 notified Deployment and usage of Change Request Form (CRF) on MCA – 21 – reg.**

    - The Change Request Form (CRF) has now been made available on the MCA V3 portal for the convenience of the user of MCA – 21 services.
    - CRF is a web based form and can be used only under exceptional circumstances, for making a request to Registrar of Companies (RoCs), for the purposes which cannot be catered through any existing form or services or functionality available either at Front Office level i.e. users of MCA-21 services or Back Office level i.e. RoCs.
    - The form CRF is not a substitute to any reporting, application and registry requirements as per Companies Act, 2013 and LLP Act, 2008, and for such purposes the Form shall not be entertained and request through this form are liable to be summarily rejected.
    - The form CRF shall not be allowed to use as a substitute for any approval related and registration related queries for which existing tickets and help desk facilities must be used.
    - The form CRF shall be primarily intended to be used for purposes like Master Data correction and to comply with certain directions of Courts/ Tribunals, which cannot be complied with through existing functionality of forms or services on MCA-21 system.
    - The ROCs shall process the form within 03 (three) days of its filing, after which its shall be forwarded to Joint Director (e- governance cell), who shall process and decide the matter within a maximum time of 07 (seven) days.

    To read the circular in detail, please click here.

RESERVE BANK OF INDIA (RBI)

1. **RBI vide the notification dated February 22, 2024, notified Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit.**

   - Government through this notification has allowed extension of the interest equalization Scheme for Pre and Post Shipment Rupee Export Credit ('Scheme') up to June 30, 2024.

   - The rate of interest equalization shall be 2% for Manufacturers and Merchant Exporters exporting under specified 410 HS lines and 3% to the MSME manufacturers exporting under any HS line.

   - Further, Government has advised some modifications to the scheme regarding: -

     - **Average interest rate**: - With effect from FY 2023-24, the banks which have priced the loans covered under this scheme at an average interest rate of greater than Repo Rate + 4% prior to subvention would be subjected to certain restrictions under the scheme.

       And based on an assessment undertaken for FY-2023 -24 Director General of Foreign Trade ('**DGFT**') will identify the banks which are in breach of the above provision.

     - **Cap on subvention amount**: - The annual net subvention amount has been already capped at Rs 10 Cr per Importer-Exporter Code ('**IEC**') in a given financial year and the same has been communicated to the trade & industry and banks vide DGFT Trade Notice.

To read the notification in detail, please click here.

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

1. IFSCA vide the circular dated February 22, 2024, issued Bullion Trading Members and Clearing Members in GIFT- IFSC.

- IFSCA through this circular dated August 07, 2023 regarding mentioned subject has extended the initial 6 months period specified in paragraphs 3 and 4 till January 28, 2024.

- Further, it has decided to extend specified in paragraphs 3 and 4 of the circulars by a further period of 6 months i.e., till July 28, 2024 or till the time IFSCA issues revised guidelines/handbook/circular specifying the requirements of minimum Net worth and Base Minimum Capital for Bullion intermediaries, whichever is earlier.

To read the circular in detail, please click here.

SEBI JUDGEMENTS

1. Adjudication order in the matter of bullion fox commodity private limited

Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted off-site inspection of M/s Bullion Fox Commodity Private Limited (hereinafter referred to as "**Noticee**") to look into various compliance requirements adhered by Noticee, with respect to provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**"), Securities Contracts (Regulations) Act, 1956 (hereinafter referred to as "**SCRA, 1956**") and applicable Circulars issued thereunder. Noticee is registered as a stockbroker with SEBI registration no. INZ000076836.

During the inspection, the Noticee was alleged to violate the following regulatory provisions:

- Misuse of Clients' funds.
- Settlement of Client funds and securities.
- Nomenclature of bank accounts.
- Non-maintenance of evidence for client order placement.
- Mismatch of mobile numbers of clients with UCC.

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.

In view of the facts and circumstances of the case and the judgements referred, the AO observed that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by Noticee. However, as a SEBI registered intermediary, Noticee was under statutory obligation to abide by the provisions of the SCRA, 1956 and SEBI Act, 1952 which it failed to do and thus, calls for penalty.

After considering the facts and the observations of the case, the AO imposed penalty of INR 3,00,000/- on the Noticee for violation of various provisions of said regulations.

To read the order 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 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.

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

Website:
https://swiftindiallp.com/

Contact:
swift@nishithdesai.com

Core Team:
Ms. Hetal Pandya - hetal.pandya@nishithdesai.com
Mr. Maulin Salvi – maulin.salvi@nishithdesai.com
Mr. Santosh Gangavati – santosh.gangavati@nishithdesai.com
Mr. Chandrashekar K – chandrashekar.k@nishithdesai.com

Principal Advisor:
Mr. Janak C. Pandya – janak.pandya@nishithdesai.com