Swift e-Bulletin

Week – February 26th to March 02nd

Quote for the week:

"It's not whether you get knocked down, it's whether you get up "

– Vince Lombardi *(American Football Coach)*

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 Reserve Bank of India ("**RBI**"), International Financial Services Authority ("**IFSCA**") and SEBI Order.

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

- **RBI vide the notification dated February 28, 2024 notified Capital Adequacy Guidelines – Review of Trading Book.**
- **IFSCA vide the circular dated March 01, 2024 have issued Fee structure for the entities undertaking or intending to undertake permissible activities in IFSC**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements/ orders issued during the week of February 26th to March 02nd.

Thank you, Swift team

RESERVE BANK OF INDIA (RBI)

1. **RBI vide the notification dated February 28, 2024, notified Capital Adequacy Guidelines – Review of Trading Book.**

   - The Master Direction on Classification, Valuation and Operation of Investment Portfolio of Commercial Banks (Directions), 2023 ("**MD on Investment**") dated September 12, 2023 inter-alia provides a clearly identifiable trading book under "Held for Trading (HFT)" accounting sub-classification and introduces AFS- reserves which would be part of regulatory capital.

   - In view of the changes cited above, it has been decided to amend the capital adequacy guidelines in alignment with the MD on Investment.

   - Accordingly, the provisions of Master Circular on Basel III Capital Regulations have been modified as provided under Annexure 1 of the said circular.

   - Further, the revised definition of trading book for the purpose of capital adequacy will be as provided in Annex I of MD on Investment, the final guidelines on 'Market Risk Capital Requirements – Simplified Standardised Approach' will be implemented at a later date and detailed guidelines will be issued separately.

   - Considering the transition to 'Market Risk Capital Requirements – Simplified Standardised Approach', the extant market risk capital requirements have also been recalibrated by introducing intermediate scalers. Banks are advised to keep this in view while reviewing their strategies and capital planning measures.

   - Further, the provisions of Master Direction – Prudential Norms on Capital Adequacy for Local Area Banks (Directions), 2021 have been modified as provided as provided in Annexure-2 of the circular.

   - The circular shall be applicable to all Commercial Banks (excluding Regional Rural Banks)

   - The said circular shall come into force from April 1, 2024.

To read the notification in details, please click here.

2. **RBI vide notification dated February 29, 2024, notified Master direction Reserve Bank of India (Bharat Bill Payment System) Directions, 2024.**

   - The current regulations covering Bharat Bill Payment System ('**BBPS**') provide for a tiered structure with (a) NPCI Bharat Bill Pay Ltd ('**NBBL**') as a Central Unit ('**BBPCU**') (b) Bharat Bill Payment Operating Units ('**BBPOUs**') and (c) Agent network/s of the BBPOUs.

   - In view of significant developments in the payments landscape, a need was felt to review and update these regulations accordingly revised regulatory framework – Bharat.

   - These Directions seek to streamline the process of bill payments, enable greater participation, and enhance customer protection among other changes.

- The master direction briefly specified Applicability, Authorisation requirement, various definition relating to bharat payment system, roles and responsibility of Bharat Bill Pay Central Unit ('**BBPCU'**) and Biller Operating Unit ('**BOU**') and Customer Operating Unit ('**COU**'), Escrow account operations and Complaint Management and Grievance Redressal.

To read the notification in detail, please click here.

3. **RBI vide notification dated February 27, 2024, notified Master direction Reserve Bank of India (Filing of Supervisory Returns) Directions - 2024.**

- All Supervised Entities ('**SEs**') are required to submit certain supervisory returns to the Reserve Bank as per various directions / circulars/ notifications issued by the Bank from time to time.

- In order to create a single reference for all Supervisory Returns and to harmonize the timelines for filing of returns, all the relevant instructions have been rationalized and consolidated into a single Master Direction.

- In exercise of powers conferred under sub section (2) of section 27 and section 35A of the Banking Regulation Act, 1949 as amended from time to time; Section 56 of the Banking Regulation Act, 1949 and extant provisions of The Banking Regulations (Co-operative Societies) Rules, 1966; extant provisions of Chapters IIIA and IIIB of the Reserve Bank of India Act, 1934; and pursuant to section 12 A of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Reserve Bank of India being satisfied that it is necessary and expedient in the public interest to do so, hereby issues this Master Direction hereinafter specified.

- The summary of changes introduced in this Direction over the extant instructions is given in Annex I.

- The list of underlying notifications / circulars which form the basis of this Master Direction and are hereby being repealed (whole or in part) is furnished in Annex II.

- The set of applicable returns to be filed by SEs and the general description of the returns are compiled and presented in Annex III, with the alternate timelines for returns submission enlisted in Annex IV.

- Guidance on filing of these returns are available on Bank's Website under the 'Regulatory Reporting' tab. Details of online portals for filing of applicable returns by SEs are given in Annex V.

- The list of abbreviations used in this Master Direction is provided in Annex VI.

To read the notification in detail, please click here.

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

1. IFSCA vide the circular dated March 01, 2024 have issued Fee structure for the entities undertaking or intending to undertake permissible activities in IFSC

- The Circular on Fees structure dated May 17, 2023 clearly indicated in the said circular that "all dues/fees payable to the Authority shall be paid by the entities either on receipt of a demand from the Authority, or as per the quantum and periodicity fixed in terms of the relevant regulations, guidelines, circulars, licence, registration, recognition, or authorization, or this Circular and schedules thereto."

- However, it has come to the notice of this Authority that though the said Circular has been in public domain for over nine months, many Regulated Entities (REs) have failed to adhere to the stipulations of the same and remit fees/dues to the Authority within prescribed timelines.

- Considering this it is reiterated that it is the responsibility of all REs to keep themselves abreast of regulatory changes, including regulations and circulars applicable to them. Therefore, all REs are advised to keep themselves updated of all applicable statutes, rules, regulations, guidelines, circulars, etc., and diligently adhere to the applicable provisions laid down therein.

- Thus, as adherence to the stipulations of the IFSCA Fee Circular cited above is concerned, all REs should be advised to remit dues to the Authority well within stipulated timelines and not wait for formal demands from the Authority or cite the lack of formal demands as a reason for non-remittance of fees and dues applicable to them, especially where the deadlines are explicitly laid down in the fee circular or any other communication made to them. It may be noted that failure to remit fees/dues to the Authority attract late payment fees as stipulated in Schedule II of the said Circular.

- All REs are also advised to ensure that periodic reports are also submitted to the Authority within stipulated timelines as late submission of periodic returns also attract late submission fees.

- The Authority with regard to REs who are in default for non-remittance of fees/dues or non submission of periodic returns, considering that considerable challenges have been encountered in the process of transition from the pre-existing fee regimes to the present harmonized onethe Authority, as a one-time measure, has decided to keep in abeyance all provisions relating to levying of prescribed late fees as indicated in Schedule II of the Fee Circular dated May 17, 2023, as amended till the fourth quarter of the CFY, i.e., 31st March, 2024

- Accordingly, no late fee will be levied on REs who have failed to pay outstanding dues/fees to the Authority within the specified time or failed to submit periodic returns to the Authority within the specified time between May 17, 2023 and March 31, 2024, subject to the condition that:

    - All fees/dues that have already fallen due or will fall due by March 31, 2024, are remitted to the Authority forthwith/by March 31, 2024.

- All periodic returns that have already fallen due or will fall due by March 31, 2024, are submitted to the Authority forthwith/by March 31, 2024.

- It is also reiterated that from the next FY, i.e., 2024-25, the Authority will not be in a position to entertain any request for waiver of fees, including late fees for late payment of dues or late submission of regulatory returns, unless the RE concerned is able to prove that such non payment/non-submission was for reasons beyond their control.

- In view of the foregoing, REs are advised that if they have any doubts about any provision of any applicable act, rules, regulations, guidelines, circulars, etc., issued by the IFSCA or any other authority w.r.t. its operations in the IFSC, they should seek clarifications from this Authority/other relevant authority well in advance of falling in default. No request for relaxation of application of any provision of applicable acts, rules, regulations, guidelines, circulars etc., citing lack of clarity or knowledge of any requirement will entertained by the Authority.

- The said circular shall be applicable to All Regulated Entities in International Financial Services Centres (IFSC) and all Applicants to the International Financial Services Centres Authority (IFSCA)

To read the circular in detail, please click here.

SEBI ORDERS

1. ADJUDICATION ORDER IN THE MATTER OF EASTERN FINANCIERS LIMITED

Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted inspection of M/s Eastern Financiers Limited (hereinafter referred to as "**Noticee**") to look into various compliance requirements adhered by Noticee. Noticee is registered as stockbroker with SEBI registration no. **INZ000193733**. Basis the findings/ observations made during the course of inspection, it has been alleged that the Noticee violated various provisions of SEBI (Stock Brokers) Regulation, 1992 and applicable SEBI Circulars.

During the inspection, the Noticee have been alleged to commit the following violations:

- Discrepancy in data pertaining to bank balance, free collateral deposited with Clearing Corporation (CC) and own securities deposited as collateral with CC;
- Discrepancies in stock reconciliation;
- Non reporting of bank account/ demat account;
- Non settlement of clients' funds on quarterly / monthly basis;
- Non-settlement of Inactive Client Funds;
- Short collection of margins;
- Terminal being operated by a person, other than approved user;
- Mapping unique mobile numbers to more than one UCC without obtaining family declaration.

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 is of the view that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of the defaults by Noticee. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors /clients on account of default by Noticee. Further, as per the available records, it is observed that Noticee has not been penalised earlier for any of the aforesaid violations. Thus, violations are not repetitive in nature.

However, Noticee was under statutory obligation to comply with the applicable circulars, rules and regulations. The very purpose of the said regulations is to deter wrongdoing and promote ethical conduct in the securities market. After considering the facts and the observations of the case, the AO imposed penalty of INR 3,50,000/- on the Noticee for violation of various provisions of said regulations.

To read the order in detail, please click here.

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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