Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
Edition 36th 22-23
Week – December 19th to December 23rd

<u>Quote for the week:</u>

"Self-belief and hard work will always earn you success"

– Virat Kohli.

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 hope that you liked our previous editions and found it to be of great value in its content. 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 Exchange Board of India ("**SEBI**"), Insolvency and bankruptcy Board of India ("**IBBI**"), International Financial Services Centres Authority ("**IFSCA**") and orders from SEBI.

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

- SEBI vide Circular dated December 19, 2022 issued clarification on enhanced guidelines for debentures trustees and listed issuer companies on security creation and initial due diligence.

- IBBI vide Circular dated December 21, 2022 issued the Proforma for reporting the liquidator's decision(s) when it is in variance with the Stakeholders' Consultation Committee (SSC) under Regulation 31A of IBBI (Liquidation Process) Regulations, 2016.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of December 19th to December 23rd, 2022.

Thank you,
Swift team

Table of Contents

REGULATORY UPDATES

SEBI.

1. **SEBI vide Circular dated December 19, 2022 issued clarification on enhanced guidelines for debentures trustees and listed issuer companies on security creation and initial due diligence**

- The said Circular has been issued in reference to Circular on "Enhanced guidelines for debenture trustees and listed issuer companies on security creation and initial due diligence" dated August 04, 2022.

- Depositories and market participants have been seeking clarifications on whether a new ISIN is to be allocated pursuant to:

  i. a change in underlying security;
  ii. creation of additional security; and
  iii. creation of security in case of unsecured debt securities.

- SEBI has clarified that, none of the above cases would constitute a change in the structure of the non-convertible debt securities, except there are no other changes to the terms/nature of issue of the non-convertible debt securities like maturity date, coupon rate, face value , redemption schedule, nature of the non-convertible debt securities like maturity date, coupon rate, face value, redemption schedule, nature of the non- convertible debt securities (secured/unsecured) etc.

- Thus, Depository shall not assign a new ISIN in such cases. However, in case of change in the underlying security, the debenture trustee shall ensure compliance with the provision of Regulation 15(1)(i) of SEBI (Debenture Trustees) Regulations, 1993.

- The said Circular is applicable to Issuers who have listed and/or propose to list Non-Convertible Securities, Securitized, Debt Instruments, Security Receipts, Municipal Debt Securities or Commercial Paper; All Recognized Stock Exchanges; All Depositories; All Debenture Trustees registered with SEBI and All Credit Rating Agencies registered with SEBI.

To read the Circular in detail, please click here

IBBI

1. **IBBI vide Circular dated December 21, 2022 issued the proforma for reporting the liquidator's decision(s) when it is in variance with the Stakeholders' Consultation Committee (SSC) under Regulation 31A of IBBI (Liquidation Process) Regulations, 2016.**

- IBBI vide their liquidation process regulations stipulates that the liquidator shall constitute a Stakeholders' Consultation Committee.

- The said Committee is to be formulated to advice the liquidator on various matters relating to remuneration of professionals, sale under Regulation 32, fees of the liquidator, etc.

- The Sub regulation 10 of Regulation 31A of the was amended vide the Notification dated September 16, 2022; to provide that the advice of the Committee will be directive in nature and not mandatory for the liquidator to adopt.

- If the liquidator chooses to vary from the advice of the Committee, then he has to record in writing the reasons thereof and submit the same to the Adjudicating Authority and the Board within 5 days from the decision. The same will also be included in the next progress report.

- For the convenience of the process the reporting mechanism has been made available in an electronic form to the liquidator on the official website of IBBI (www.ibbi.gov.in)

- Then proforma, to be put to use by the insolvency professionals has been also annexed to the end of the said Circular.

To read the Circular in detail, please click here.

[This Space is intentionally left blank]

IFSCA

1. **IFSCA vide Press Release dated December 21, 2022 enumerated the salient features of the Regulatory Framework for Distribution of Capital Market Products and Services.**

- IFSCA notified the framework for Distribution of Capital Market Products and Services under the IFSCA (Capital Market Intermediaries) Regulations, 2021, a step towards its goal of better developing and regulating the financial products, financial services and financial institutions.

- In the distribution of capital market products and services, the vital role is played by the distributors.

- IFSCA enabled the distributors to offer the distribution from IFSC on a global level allowing all the clients to be from various jurisdiction.

- The salient features of the framework are as below:

  - The distribution can take place of capital market products that include a wide range of securities as listed under Securities Contracts (Regulation) Act, 1956 and Capital Market Services which include portfolio management services and investment advisory services.

  - The distributors may offer services and products to "**Sophisticated Investors**", although the distribution to other investors must be done by exercising high level of diligence from amongst the stipulated services and product list.

  - The framework allows the "**Associated Distributors**" ie. Entering into agreements with other distributors in India, IFSC and foreign jurisdiction to expand the scope of the working operations and to get access to a wide range of issuers and service providers.

  - The entities that are either IFSC registered or licensed can avail the simplified registration process and undertake to function as a distributor like the Banking Units, Finance Companies, Broker-Dealers, Investment Bankers, Investment Advisers and Corporate Agents.

  - With due prior consent, certain distributors like the Banking Units, Finance Companies, Broker-Dealers and the ones with net worth exceeding USD 1,50,000 are allowed to invest in the jurisdiction permitting the omnibus structures.

- The code sets of the conduct to be practiced by the distributors to ensure the fairness of the work, and it is upon the participants to ensure that the code is adhered to.

To read the Press Release in detail, please click here.

[This Space is intentionally left blank]

JUDGEMENTS/ ORDERS

SEBI

1. **In the matter of scheme of amalgamation of Equitas Holdings Ltd with Equitas Small Finance Bank Ltd.**

SEBI while processing the scheme of amalgamation of Equitas Holdings Ltd ("Noticee") with Equitas Small Finance Bank Ltd ("Transferee Company") observed violation of provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("SAST Regulation").

SEBI initiated adjudication proceedings against the Noticee for the aforesaid alleged violations. During the proceedings, it was observed that the Noticee has not filed the disclosure about change in shareholding for more than 2%, as required under Regulation 29(2) read with 29(3) of SAST Regulation.

The Adjudicating Officer (**"AO"**) issued Show Cause Notice (**"SCN"**) to the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed for the alleged violation.

After receiving the reply from the Noticee and after considering all the facts and circumstances of the case, the AO did not find any reason to hold that there has been any violation committed by Noticee. Hence, the matter was disposed without imposing any penalty.

To read the Order in detail, please click here.

[This Space is intentionally left blank]

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

This newsletter provides general information existing at the time of preparation. The newsletter is intended as a news update and Swift India Corporate Services LLP neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this newsletter. It is recommended that professional advice be taken based on the specific facts and circumstances. This newsletter does not substitute the need to refer to the original pronouncements.

+91 22 6669 5000

Call us toll free 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 associate entity of Nishith Desai Associates — Legal & Tax Counseling Worldwide (legal and tax consulting firm).

We are a team of professionals with rich corporate, legal and secretarial backgrounds. We are a premier corporate compliance firm that caters to the needs and demands of our global clients. Swift aims to provide quick and pragmatic corporate solutions alongside high-quality compliances.

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

www.swiftindiallp.com