Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
Edition 07th 23-24
Week – May 29th to June 02nd

Quote for the week:

"The ten zeros in my bank account, it's the money I loaned with my youth as collateral."

- *Agust D*

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 times. This week's newsletter covers various Circulars/Notifications issued by certain regulatory authorities such as Ministry of Corporate Affairs **("MCA")**, the Securities and Exchange Board of India ("**SEBI**") and International Financial Services Center Authority ("**IFSCA**") and orders from SEBI.

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

- **SEBI vide Circular dated May 30, 2023, issued comprehensive guidelines for Investor Protection Fund and Investor Services Fund at Stock Exchanges and Depositories.**

- IFSCA vide Circular dated May 31, 2023 issued the reporting norms for the Fund Management Entities (FMEs) under the IFSCA (Fund Management) Regulations, 2022.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of May 29th to June 02nd, 2023.

Thank you,
Swift team

Table of Contents

REGULATORY UPDATES

SEBI

1. **SEBI vide Circular dated May 30, 2023 issued comprehensive guidelines for Investor Protection Fund and Investor Services Fund at Stock Exchanges and Depositories.**

- SEBI vide Circular No.SE/10118 dated October 12, 1992 had advised the Stock Exchanges to establish an Investor Services Fund ("**ISF**") and vide circular No.MRD/DoP/SE/Cir-38/2004 dated October 28, 2004 had issued comprehensive guidelines for Investor Protection Fund ("**IPF**") to be maintained by Stock Exchanges.

- The guidelines for ISF and IPF have been modified time and again; and basis the feedback received from the market participants it was decided to modify the existing guidelines.

- The guidelines for ISF and IPF inter-alia include the following

  - <u>ISF of Stock Exchanges</u>

    - For the provision of services to investing public the SEs shall set aside at least 20% of the listing fees received.

    - Regulatory Oversight Committee shall supervise the ISF Corpus utilization to facilitate the better management and Control.

    - The Circular also provides for the utilization of the amount in ISF.

  - <u>IPF</u>

    - <u>Constitution and Management of the IPF</u>: All the Stock Exchanges and the Depositories to constitute the IPF. The separate trusts will be formulated to administer Stock Exchange and Depository.

    - <u>Contribution to IPF of Stock Exchange</u>: Specifies the percentages of the various contributions to be made by the SEs to the IPF.

    - <u>Contribution to IPF of Depositories</u>: Specifies the percentages of the various contributions to be made by the SEs to the Depositories.

    - <u>Utilization of IPF and the interest / income from IPF</u>: The Circular provides a table detailing about the utilization of the IPF and the Interest or income received out of any investments made from the IPF by the Stock Exchanges and the Depositories.

    - <u>Deployment of funds of IPF by SEs and Depositories</u>

- **Review of IPF Corpus**: SEs and Depositories to conduct a half-yearly review of the adequacy of the IPF Corpus by end of march and September.

- **Timelines for declaration of default of a TM, processing of investor claims out of IPF and review of claims**: Prescribed in Annexure – 1 of the Circular.

- **Threshold Limit for claims**: SEs shall fix investor compensation limits, in consultation with the IPF Trust and SEBI. Review and the progressive increase of the amount of compensation against a single claim, at least once in every 3 years.

- **Disclosures**: The disclosures to be made by the SEs and the Depositories are listed down in the circular.

- The Circular also lists down the Circulars that will be rescinded with this Circular coming into force.

- The said Circular shall stand effective from 29th June, 2023, ie. within 30 days from the issue of the Circular.

To read the Circular in detail, please click here.

2. SEBI issued Master Circular for Electronic Gold Receipts (EGRs) dated June 01, 2023.

- SEBI has from time to time issued Circulars detailing the framework for EGRs, risk management, Standard Operating Guidelines for Vault Managers & Depositories, etc.

- To facilitate the stakeholders to have easy access to all the Circulars at one place the Master Circular has been issued having a compilation of all the Circulars in Annexure – A.

- The compilation includes circulars till March 31, 2023.

- Annexure – C of the Master Circular includes the list of all the Circulars that have stood rescinded.

- The actions done/taken under the rescinded Circulars shall have the effect as if they were done or taken under the corresponding provisions of this Master Circular.

- Applications made to SEBI under the rescinded Circulars and action on the same is pending; the same shall be deemed to have been made under the corresponding provisions of the Master Circular.

- The grants, privileges, obligation or liability acquired, accrued or incurred under the rescinded Circulars shall be continue to be unaffected.

- The Master Circular contains the following

    - The framework for operationalizing the trading of EGRs

- The trading features
- Standard Operating Guidelines and the modalities for the Vault Managers and Depositories
- Product Specifications
- Comprehensive Risk Management Framework.

To read the Master Circular in detail, please click here.

3. **SEBI issued Circular dated June 02, 2023 for Transactions in Corporate Bonds through Request for Quote (RFQ) platform by Stock Brokers (SBs).**

- SEBI in order to enhance the transparency and disclosure pertaining to trading in secondary market in corporate bonds, it has taken steps to increase the liquidity on RFQ platform of stock exchanges.

- Stipulations have been made for transactions on RQF platform by Mutual Funds, Portfolio Management Services and Alternate Investment Funds.

- SEBI has decided to take steps to increase the liquidity on RQF Platform whilst trading in Corporate Bonds (CBs) in the following manner

  - For the trades in proprietary capacity, SBs shall undertake a certain percentage of their total secondary market trades by value in CBs in that month by placing/seeking quotes through one-to-one (OTO) or one-to-many (OTM) mode on the RFQ platform of stock exchanges

    - **With effect from July 01, 2023**: 10% of their total Secondary Market Trades.

    - **With effect from July 01, 2024**: 25% of their total Secondary Market Trades.

  - Proprietary trades executed by value through OTO or OTM mode of RFQ with respect to the total secondary market trades in CBs, during the current month and immediate preceding two months shall be considered on a rolling basis.

  - SEBI vide Circular SEBI/HO/DDHS/P/CIR/2022/142 dated October 19, 2022 specified that quotes on RFQ platform can be placed to an identified counterparty (i.e. 'one-to-one' mode) or to all the participants (i.e. 'one-to-many' mode). However, OTM is encouraged to achieve better price discovery.

- Stock Exchanges are directed to provide disseminate the provisions of this Circular by placing it on their website and also given power thereto to amend the bye-laws, rules and regulations.

- Stock Exchanges are further directed to report to SEBI on a monthly basis the status of implementation of the said provisions.
- Stock Exchanges are also instructed to file with Department of Debt and Hybrid Securities (DDHS), SEBI the "**Compliance Report**" by the beginning of the August 2023.

To read the Circular in detail, please click here.

[This space is intentionally left blank]

MCA

1. **MCA vide Notification dated May 31, 2023 amended the Companies (Accounts) Rules, 2014.**

- Pursuant to this Notification, the said Rules will be called as the Companies (Accounts) Second Amendment Rules, 2023.

- This Notification amends the Rule 12 (1B); it inserted the following post the Second Proviso

  "Provided also that for the financial year 2022-23, Form CSR-2 shall be filed separately on or before 31st March, 2024 after filing Form No. AOC-4 or Form No. AOC-4 NBFC (Ind AS), as specified in these rules or Form No. AOC-4 XBRL as specified in the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015 as the case may be."

To read the Notification in detail, please click here.

[This space is intentionally left blank]

IFSCA

1. **IFSCA vide Circular dated May 31, 2023 issued the reporting norms for the Fund Management Entities (FMEs) under the IFSCA (Fund Management) Regulations, 2022.**

- Vide the Circular IFSCA has specified reporting norms for the Fund Management Entities (FMEs).
- The FMEs are required to submit the information on a half-yearly basis [every September and March] in the format as specified in https://ifsca.gov.in/Downloadfile/Index.
- The half yearly report to be submitted within 21 days from the end of the half year.
- However, the first report to be submitted pursuant to this Circular w.r.t. October 01, 2022 to March 31, 2023, can be submitted latest by June 21, 2023.
- The half-yearly report to include the following
    - Quantitative information in an editable Excel Sheet to include Fund Management Operations of the FMEs.
    - Signed "**Compliance Report**" in the form of scanned PDF file.
- The reports are to be submitted as by way of Email to the Authority on a dedicated email id created for the said purpose which is mentioned in the reporting formats.
- The Authority will continue to monitor the functioning of the fund management industry in the IFSC and may supplement/update the reporting formats.

To read the Circular in detail, please click here.

2. **IFCSA issued Consultation Paper dated May 29, 2023 on the proposed IFSCA (Banking) (Amendment) Regulations, 2023.**

- Consultation Papers are issued with a view to seek the comments/views/suggestions from the public at large on the proposed amendments to the International Financial Services Authority (Banking) (Amendment) Regulations, 2020.
- According to the IFSCA (Banking) Regulations, 2020, a Parent Banking Company is allowed to set up only 1 Banking Unit in an IFSC and that too as a Branch.
- Pursuant to the Banking Regulations coming into effect, the banking operations have seen a steady growth and to further the growth new models are required to be put in place.
- In this regard, "**Subsidiary Model**" is proposed to further better the **existing** "**Branch Model**".

- In this regard the proposed amendments are as follows

  - Permit IBUs to be set up as a Subsidiary rather than merely a Branch Unit.

  - Specify the base capital required to commence operation as a subsidiary company if the parent bank at USD 50 Million; discretion given to the Authority to specify any other level of the capital.

- The Draft Amendment Regulations are placed on the website of the IFSCA at https://ifsca.gov.in/PublicConsultatio.

- General Public and Stakeholders are requested to submit their comments in MS Word or MS Excel Format via email to Mr. Supriyo Bhattacharjee at supriyo.b@ifsca.gov.in and Mrs. Manisha Khuntia at manisha.khuntia@ifsca.gov.in on or before June 19, 2023.

- The format for providing the comments is also specified at the end of the Consultation Paper.

To read the Consultation Paper in detail, please click here.

[This space is intentionally left blank]

JUDGEMENTS/ ORDERS

SEBI ORDER

1. Adjudication order in the matter of Summaya Industries Limited & Summaya Corporation Limited.

- SEBI has undertaken examination pursuant to a whistle blower compliant filed with SEBI with respect to Summaya Industries Limited ("**Noticee 1**") and Suumaya Corporation Limited ("**Noticee 2**") collectively known as "**Noticees**".
- During the examination, it was observed that the Noticees have made delayed disclosures regarding the arrest of their Chairperson, MD and CEO to the respective Stock Exchanges after the same has been pointed out by SEBI an thus violated the Regulation 30(2) read with Regulation 30(6) and Clause A(6) of Part A of the Schedule III of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("**LODR Regulation**").
- Accordingly, Adjudicating Proceedings were initiated against the Noticees and a Show cause notice was issued to the Noticees, requiring the Noticees to show cause as to why and inquiry should not be held, and penalty be not imposed.
- After considering the reply made by the Noticess and material available on records, Adjudicating Officer ("**AO**") is of the view that adequate and accurate disclosure of information on an ongoing basis by listed entities is to ensure compliance in letter and spirit and non-disclosure of such information is violation of provisions of LODR Regulation.
- After taking into consideration the nature and gravity of the violations established, the AO imposed penalty on Noticees of INR 1,00,000/- each.

To read the Order in detail, please click here.

2. Adjudicating Officer slaps penallty on a Company for for violation of various provisions of Investment Advisers regulations.

- Securities Exchange Board of India ("**SEBI**") conducted an investigation and found out that CapitalVia Global Research Limited ("**Noticee**") charging clients exorbitant fees for investment products/services without adequate disclosures and adequate risk profiling of such clients.
- During the investigation, it was observed that Noticee had subjected their clients to extraordinary financial risks without any knowledge of such risks on their part Noticee had violated Regulation 15(3) of IA Regulations and that by not conducting adequate risk profiling of clients and that by not ensuring that the investment advice provided by Noticee was suitable to its clients having regard to their risk profile.
- Considering the above, the Adjudicating Officer ("AO") was of the view that the repetitive nature of the default and the inspection having brought on record any regulatory action taken by SEBI in past against Noticee for the same violations as those observed in the instant inspection. However, as a SEBI registered investment adviser, Noticee was under a statutory

obligation to abide by the provisions of IA Regulations and act honestly and fairly in the best interests of their clients, which they had deliberately failed to do.

- In view of the above, AO imposed penalty of INR 30,00,000/- on Noticee for violation of provisions of various Regulations of SEBI (Investment Advisers) Regulations, 2013.

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