Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
Edition 08th 23-24
Week – June 05th to June 09th

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

"I go somewhere I haven't been and just watch people and colours. That's my inspiration"

- *Kim Namjoon*

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 and exchange Board of India ("**SEBI**") and Reserve Bank of India ("**RBI**").

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

- ❖ **SEBI vide Circular dated June 08, 2023, modified the previously issued Circulars on repo transactions on Corporate Debt Securities.**

- ❖ **RBI vide Notification dated June 06, 2023 notified the Risk Management and Inter-Bank Dealings - Non-deliverable derivative contracts (NDDCs).**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of June 05th to June 09th, 2023.

Thank you,
Swift team

REGULATORY UPDATES

SEBI

1. **SEBI vide Circular dated June 08, 2023, modified the previously issued Circulars on repo transactions on Corporate Debt Securities.**

- SEBI in November 11, 2011 and November 15, 2012 issued circulars allowing participation of repo transactions on corporate debt securities.

- Vide this Circular they have partially modified the existing Circulars

  - Mutual Funds can participate in Repos of the CDs which are

    (i) Listed AA and above
    (ii) Commercial papers (CPs) and Certificate of Deposits (CDs)

  - Credit Rating of the exposure on repo transactions shall be the same as the underlying securities ie., on a look through basis for the purposes including for Potential Risk Class (PRC) matrix, liquidity ratios, Risk-o-meter etc.

  - For the transaction for which Clearing Corporations have guaranteed settlement, determination of investments limits for single issuer, group issuer and sector level limits shall be void of the exposure.

- All other provisions of the original circulars shall remain valid and application.

- The Circular modifying the initial circulars shall come into immediate effect.

To read the Circular in detail, please click here.

2. **SEBI vide Circular dated June 08, 2023 issued the Online Processing of investor service requests and complaints by RTAs.**

- Holders of the physical security certificates shall submit various documents to RTAs w.r.t. various service requests/ complaints which inter alia includes the following

  - Intimation/updation, etc. of the PAN, Nominee, etc.
  - Processing of the investor requests.
  - Services through depository participants such as dematerialization, re-materialization etc.

- The process is aimed to be digitized in two phases which are briefly discussed below and to provide friendly mechanism for the investors to lodge service requests and complaints along with the status tracking mechanism.

- The said mechanism is bound to confer; inter-alia the following benefits

  - Database for the service requests and complaints
  - Easy reach for the procurement of acknowledgement and intimation to investors
  - Online status tracking of the complaints and requests lodged.

To read the Circular in detail, please click here.

3. **SEBI vide Circular dated June 08, 2023 issued detailed framework for Upstreaming of clients' funds by Stockbrokers (SBs)/ Clearing Members (CMs) to Clearing Corporations (CCs).**

- SEBI from time to time has issued necessary directions/guidelines to Stockbrokers (SBs)/Clearing Members (CMs) to ensure orderly functioning of the securities market along with protecting the interests of the investors.

- Giving regard to the above, to safeguard the funds of the investors in the custody of the SBs/CMs it is mandated to require the upstreaming of the clients' funds received.

- The funds shall not be retained by the SBs/CMs on "**End of day**" (EoD) basis.

- The funds shall be upstreamed by the SBs/CMs to the CCs in the following manner

  - Cash;
  - lien on FDR – post following of the conditions stipulated in the circular;
  - pledge of units of Mutual Fund Overnight Schemes (MFOS)

- The Circular details out the brief framework of w.r.t. the following

  - <u>Upstreaming via FDRs created out of clients' fund</u>

    (i) SBs/CMs to create the FDRs only with banks which satisfy the CC's exposure norms
    (ii) FDRs are necessary to be lien marked to one CCs at all times
    (iii) Tenure: Maximum 1 year and it shall be on pre-terminable basis
    (iv) The amount shall be in safe custody even after accounting for the sake of pre-termination costs.
    (v) SBs/CMs to not avail any funded/non-funded banking facilities basis the client's funds.

  - <u>Upstreaming via pledge of units of Mutual Fund Overnight Schemes (MFOS)</u>

(i) SBs/CMs shall ensure that client funds are invested only in such MFOS that deploy funds into risk-free government bond overnight repo markets and overnight Tri-party Repo Dealing and Settlement (TREPS).
(ii) The MFOS is a new avenue that ensures minimal risk transformation of client funds.
(iii) SBs/CMs to maintain a Demat Account for MFOS units.
(iv) The Master Circular which details the categories of the accounts to be maintained by the stock brokers has been modified to include the 6th category ie. “Client Nodal MFOS Account” to the already existing 5 categories.

- <u>Receipt/payment of funds by SBs and CMs from/to their constituents</u>

(i) Client funds other than FDRs and MFOS to be upstreamed to the CC before cut-off time.
(ii) The nomenclature of all such accounts shall be changed to either of the following two categories of bank accounts.

  - Up Streaming Client Nodal Bank Account (USCNBA)
  - Down streaming Client Nodal Bank Account (DSCNBA)

- CCs are required to build in a mechanism of utilization of surplus unutilized collateral lying with CC in the form of cash towards fund pay-in requirements across segments.

- CCs shall also facilitate a mechanism to adjust the margin blocked in the form of cash, towards client fund pay-in obligations by January 01st, 2024.

- The Circular shall come into effect from July 01, 2023.

- To ensure Monitoring mechanisms, the CCs and Stock Exchanges shall create SOP for monitoring the implementation of the provisions of this circular.

- The Stock Exchanges, depositories and clearing corporations are required to bring to the notice of the participants all the provisions of the Circular and amend the bye-laws, rules and regulations to that effect.

- The Stock Exchanges, depositories and clearing corporations are required to submit the Compliance report to SEBI by August 31, 2023.

To read the Circular in detail, please click here.

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RBI

1. **RBI vide notification dated June 08, 2023 issued a framework for Compromise Settlements and Technical Write-offs.**

- RBI has from time to time issued various instructions to Regulated Entities (REs) in respect to stressed accounts.

- One such framework which recognizes the compromise settlements as a valid resolution plan is the Prudential Framework for Resolution of Stressed Assets dated June 7, 2019 ("Prudential Framework").

- With a view to harmonize the instructions across all REs, it has been decided to issue a comprehensive regulatory framework governing compromise settlements and technical write-offs covering all the REs.

- The framework shall deal with the following

  - Board Approval Policy: REs shall put in place Board-approved policies for undertaking compromise settlements with the borrowers and technical write-offs.
  - Delegation of Power
  - Prudential Treatment
  - Reporting Mechanism
  - Oversight by the Board: The Board will mandate suitable reporting format to ensure adequate coverage.
  - Cooling Period: As determined by the Board Approval Policies
  - Treatment of accounts categorized as fraud and willful defaulter: REs may undertake compromise settlements or technical write-offs w.r.t. such accounts.

To read the Circular in detail, please click here.

2. **RBI vide Notification dated June 08, 2023 notified the guidelines on Default Loss Guarantee (DGL) in Digital Lending.**

- RBI vide Press release on *"**Recommendations of the Working group on Digital Lending – Implementation**"* dated August 10, 2022 clarified that First Loss Default Guarantee (FLDG) was under examination with the Reserve Bank.

- The arrangements between regulated Entities (REs) and lending Service Providers (LSPs) or between 2 REs involving DLG [FLDG] have since then been under scrutiny.

- Pursuant to the examination; it was decided to allow such arrangements in line with the guidelines mentioned in "**Annexure**" to this Circular.

- The provisions of the Notification shall come into effect immediately.

- The guidelines inter-alia briefly details about the following

  - Eligibility of the DLG Provider
  - Structure of DLG Arrangements
  - Forms of DLG
  - Cap on DLG
  - Recognition of NPA
  - Disclosure requirements
  - Due diligence and other requirements w.r.t. DLG provider.

To read the Notification in detail, please click here.

3. **RBI vide Notification dated June 06, 2023 notified the Risk Management and Inter-Bank Dealings - Non-deliverable derivative contracts (NDDCs).**

- Giving reference to the Statement on Developmental and Regulatory Policies dated April 06, 2023 which were announced as a part of first Bi-monthly Monetary Policy Statement for 2023-24; the Authorized dealer Cat-I Banks' attention is sought to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 dated May 3, 2000 which have been amended time and again.

- As per the regulatory framework in place, the above mentioned banks operating the International Financial Services Centre (IFSC) Banking Units (IBUs) are allowed to issue to persons resident outside India, non-deliverable derivative contracts (NDDCs) which are cash settled.

- With an intent to develop the onshore INR NDDC Market and providing residents the flexibility to efficiently design their hedging programmes, the following has been permitted

  - AD Banks to offer to resident non-retail users the NDDCs, for the purpose of hedging; which will be cash settled.

  - Flexibility in the cash settlement for NDDC transactions between 2 AD Banks and between AD Bank and Person resident out of India.

- The amendments in line with the amendments are provided for in a comparison structure vis-à-vis the old provisions.

To read the Notification in detail, please click here.

4. **RBI vide Notification dated June 07, 2023 notified the Trade Receivable Discounting System (TreDS) Guidelines.**

- RBI issued 'Guidelines for the '**Trade Receivables Discounting System (TReDS)**' to help the MSMEs to convert their trade receivables into liquid funds.

- Pursuant to these guidelines MSMEs are allowed to finance/discount their receivables on "**without recourse**" basis by permitted financiers.

- In addition to the already existing 3 entities operating in the TReDS platform a new entrant entity has been granted in-principle authorisation to operate such platform.

- Basis the practicality and the Statement on Developmental and Regulatory Policies dated February 8, 2023, there are inter-alia the following enhancements made to the TReDS Guidelines

    - Facilitate insurance for transactions

    - Expand the pool of the financiers: All the entities and institutions that are allowed to undertake the factoring business under Factoring Regulation Act, 2011 (FRA) are permitted to participate as financiers in the TReDS Platform.

    - Enable Secondary market for Factoring Units (FUs): There is a possibility shown for the enabling of the Secondary Market FU transfers on TReDS Platform.

    - Settlement of FUs not discounted/ financed: Permission is granted to undertake the settlement of the FUs even the non-discounted/ financed ones using the NACH Mechanisms.

    - Display of bids: In order to provide a transparent and competitive bidding platform to the financiers, the platforms may display the bids placed for a particular FU to other bidders.

To read the Notification in detail, please click here.

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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.

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