Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
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Week – Sep 05 to Sep 09

Quote for the week:

"Business has only two functions marketing and innovation"

– Milan Kundera.

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 Ministry of Corporate Affairs ("**MCA**"), Reserve Bank of India ("**RBI**"), International Financial Services centre Authority ("**IFSCA**") and orders passed by the SEBI.

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

- **MCA vide Notification dated September 05, 2022 amended Section 55 of Insolvency and Bankruptcy Code, 2016.**

- **RBI vide Notification dated September 07, 2022 reviewed the Prudential Norms – Risk Weights for Exposures guaranteed by Credit Guarantee Schemes (CGS).**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of September 05 to September 09, 2022.

Thank you,
Swift team

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REGULATORY UPDATES

MCA

1. **MCA vide Notification dated September 05, 2022 amended Section 55 of Insolvency and Bankruptcy Code, 2016.**

- MCA vide Notification dated September 05, 2022 issued an amendment to clause b of sub section 2 of Section 55 of the Insolvency and Bankruptcy Code, 2016.

- The Section 55 details about Fast Track Insolvency and the above-mentioned sub section briefs us about the persons against whom Fast Track Insolvency process can be commenced.

- Pursuant to this amendment, clause (b) of Section 55 (2) of Insolvency and Bankruptcy Code 2016 shall be substituted and read as follows: -

  *"(b) a **Startup** (**other than the partnership firm**) as defined in the notification of the Government of India in the Ministry of Commerce and Industry number G.S.R. 127(E), dated the 19th February, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 19th February, 2019 and as amended from time to time; or".*

To read the Notification in detail, please click here.

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RBI

1. RBI vide Notification dated September 07, 2022 reviewed the Prudential Norms – Risk Weights for Exposures guaranteed by Credit Guarantee Schemes (CGS).

- RBI vide Notification dated September 07, 2022 reviewed the Prudential Norms - Risk weights for exposures granted by Credit Guarantee Schemes (CGS).

- In relation to the above, it is advised that the risk weight of zero percent shall be applicable to the schemes satisfying the following conditions:

    - The guarantees under the scheme shall be such that they are complying the Credit Risk Mitigation as laid down in the master circular on Base III Capital Regulations dated April 01, 2022.
    - If the terms of CGS restrict the maximum permissible claims; the zero percent risk weight shall be restricted to the maximum permissible claim and the residual exposure shall be subjected to risk weight as applicable to the counterparty in terms of extant regulations.
    - In an event where the guarantee is a portfolio-level guarantee, the first loss absorption will be subject to capital deduction and the residual exposure to risk weight on pro-rata basis as per the regulation.

- Any scheme launched in the future shall alongwith satisfying the above conditions shall also provide for settlement of the claims in 30 days from lodgment date. And the claims should be allowed to be lodged in a period of 60 days from the default.

- The annexure to the notification illustrates the examples for risk weights applicable on guaranteed claims under specific existing schemes.

To read the Notification in detail, please click here.

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IFSCA

1. **IFSCA vide Circular dated September 09, 2022 Amended the guidelines for Liquidity Enhancement Scheme.**

- IFSCA previously vide Circular 286/IFSCA/PM(CMD-DMIIT)/2021/4 dated March 31, 2022 issued Guidelines for Liquidity Enhancement Scheme in IFSC.

- Based on the representations received from stock exchanges, it has been decided to modify Clause 1 a) and 2 a) of the aforementioned Circular as follows:

  - The Scheme shall have prior approval of the Governing Board of the Stock Exchange, which will be valid for one year. The Governing Board of the Stock Exchange may grant annual approval till the time the scheme is in operation. Further, its implementation and outcome shall be monitored by the Governing Board at quarterly intervals.
  - The Stock Exchange may introduce Liquidity Enhancement Schemes on any security. Once the scheme has been discontinued, it can be re-introduced on the same security.

- IFSCA hereby directs all the stock exchanges to:

  - Take necessary steps to put in place systems for implementation of the circular, including necessary amendments to relevant byelaws, rules and regulations;
  - Bring the provisions of this circular to the notice of broker dealers and also disseminate the same on its website;
  - Communicate to IFSCA the status of implementation of the provisions of this circular.

To read the Circular in details please click here.

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JUDGEMENTS AND ORDERS

SEBI Order

1. In the matter of dealings in Illiquid Stock Options at the Bombay Stock Exchange, the adjudicating proceeding against Noticee was disposed of.

- Securities and Exchange Board of India ("SEBI") observed a largescale reversal of trades in the stock options segment of Bombay Stock Exchange (herein referred to as BSE) leading to alleged creation of artificial volume in the stock options segment.

- In this regard, SEBI conducted an investigation into the trading activity in the illiquid Stock Options Segment at BSE for the period April 01, 2014 to September 30, 2015. During the course of investigation, it was observed that Late Gigi Devi Agarwal (hereinafter referred to as "**Noticee**") was one such client whose reversal trades involved squaring off open positions with a significant difference without any basis for such change in the contract price during the above referred investigation period. It was also observed that Noticee had entered into reversal trades which allegedly resulted into generation of artificial volumes and violation of provisions of regulations 3(a), (b), (c), (d) and regulations 4(1), 4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**").

- In this regard, Show Cause Notice ("SCN") was issued against Noticee for alleged violations. During the investigation it was observed that the Noticee expired before adjudication proceedings were initiated against her.

- Thus, the proceedings are against the acts of omission and commission of person who is no more to face the charges. (Noticee). on consideration of facts of the matter, AO passed the order by stating that the SCN issued against the Noticee is disposed of.

To read the Order in detail, please click here.

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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 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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