Swift India

CORPORATE SERVICES LLP

Swift e-Bulletin
Edition 9th 22-23
Week – May 30th to June 03rd

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

"Without Continual growth and progress, such words as improvement., achievement and success have no meaning."

— Benjamin Franklin

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 Ministry of Corporate Affairs (MCA) and Securities and Exchange Board of India ("SEBI").

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

- **MCA has notified the Companies (Appointment and Qualification of Directors) Amendment Rules, 2022.**

- **MCA has issued Circular granting relaxation on paying additional fees in case of delay in filing all the event-based e-forms by Limited Liability Partnership.**

We have prepared a comprehensive summary for quick reference of the aforesaid updates issued during the week of May 30, 2022 to June 03, 2022.

Thank you,
Swift team

REGULATORY UPDATES

MCA

1. **MCA has notified the Companies (Appointment and Qualification of Directors) Amendment Rules, 2022.**

- MCA vide Notification dated June 01, 2022 notifies the revised Rule 8 and Rule 10(1) of the Companies (Appointment and Qualification of Directors) Rules, 2014 by inserting new proviso which states as below.

- Rule 8

  "Provided further that in case the person seeking appointment is a national of a country which shares land border with India, necessary security clearance from the Ministry of Home Affairs, Government of India shall also be attached along with the consent."

  Rule 10(1)

- *"Provided that no application number shall be generated in case of the person applying for Director Identification Number is a national of a country which shares land border with India, unless necessary security clearance from the Ministry of Home Affairs, Government of India has been attached along with application for Director Identification Number."*

- In order to give effect to the above circular, MCA has also amended the Declaration in Form DIR-2 (Consent to be given by any person who will be acting as the Director in the Company) and Form DIR-3 for applying the Director Identification Number (DIN) for any individual who is willing to act as Director of the Company.

- The said amendment is applicable from June 01, 2022.

To read the General Circular in detail, please click here

2. **MCA has issued Circular granting relaxation on paying additional fees in case of delay in filing all the event-based e-forms by Limited Liability Partnership.**

- The Ministry has received representations from stakeholders seeking extension on timelines for filing of various event-based LLP forms, the due dates of which are falling between February 25, 2022 and May 31, 2022.

- In view to promote compliance by the Limited Liability Partnerships, MCA vide General Circular dated May 31, 2022 (General Circular No. 06/2022) granted the relaxation from paying of additional fees in case of delay in filing of various event-based LLP e-forms as mentioned above by Limited Liability Partnerships **up to June 30, 2022**.

To read the General Circular in detail, please click here

3. MCA has issued the Circular providing clarifications on main object of Section 8 Companies as Micro Finance/ Micro Credit activities.

- The Ministry has observed that various section 8 companies are altering their Main Object Clause for carrying out micro finance activities by way of passing Special Resolution, changing main activity code and subsequently filing e-form MGT-14 with concerned ROCs even though at the initial incorporation ROC(CRC) is not allowing section 8 Companies to get incorporated with main object clause as microfinance activities.

- In this regard, to promote compliance, Ministry has informed respective ROC offices vide General Circular dated May 30, 2022 (General Circular No. 05/2022) to take immediate actions including changing the object clause of such Section 8 Companies from carrying out micro finance activities.

To read the General Circular in detail, please click here

[This space is intentionally left blank]

SEBI

1. **SEBI has issued Circular on processing the ASBA applications in public issues of Equity Shares and convertibles.**

- SEBI vide Circular dated November 01, 2018 SEBI/HO/CFD/DIL2/CIR/P/2018/138 introduced the use of Unified Payment Interface **("UPI")** as an additional payment mechanism with ASBA for Retail Individual Investors and the same was mandated w.e.f July 01, 2019 vide circular SEBI/HO/CFD/DIL2/CIR/P/2019/76 dated June 28, 2019 for applications by Retail Individual Investors (RIIs) submitted through Intermediaries.

- The ASBA applications in the public issues by market intermediaries were reviewed and in order to further streamline the bidding process and to ensure the orderly development of securities market, a need has been felt to implement the ASBA process in line with the aforementioned circulars.

- The ASBA applications in Public Issues shall be processed only after the application monies are blocked in the investor's bank accounts. Accordingly, all intermediaries / market infrastructure institutions are advised to ensure that appropriate systemic and procedural arrangements are made within three months from the date of issuance of this circular.

- It is also prescribed that the Stock Exchanges shall accept the ASBA applications in their electronic book building platform only with a mandatory confirmation on the application monies blocked is received.

- This Circular shall be applicable on or after September 01, 2022.

To read the General Circular in detail, please click here

2. **SEBI has issued Circular granting extension of facility for conducting the annual general meeting and other meeting of unit holders of REIT`s and InVIT`s through video conferencing or through other audio-visual means (OVAM).**

- SEBI vide circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/102 dated June 22, 2020 read with circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/201 dated October 08, 2020 permitted REITs/InvITs to conduct annual meetings and other meetings of unitholders through VC or OAVM up to December 31, 2020.

- SEBI vide Circular dated February 26, 2021 extended the facility to conduct Annual General Meetings of unitholders through Video Conferencing Mode till December 31, 2021 and other meetings of unitholders till June 30, 2021 and further the annual general Meetings and other meetings to be conducted through Video Conferencing mode was extended till June 30, 2022.

- SEBI has received the representations from stakeholders of REITs/InvITs and accordingly the aforesaid facility to conduct the Annual General Meetings and other Meetings of Unit holders through Video Conferencing mode was extended till December 31, 2022.

To read the Circular in detail please click here

3. SEBI has issued Circular on Standard Operating Procedures (SOP) for dispute resolution under stock exchange arbitration mechanism.

- SEBI through regulation 40 of (Listing Obligations and Disclosure Requirements) Regulations, 2015, and through bye-laws, listing agreement & regulations of the stock exchanges provided for dispute resolution under the stock exchange arbitration mechanism for disputes between a Listed company and its shareholder(s)/ investor(s).

- SEBI vide circular dated April 08, 2022 advised Exchanges to put in place a Standard Operating Procedure (SOP) for operationalizing the resolution of all disputes pertaining to or emanating from investor services such as transfer/transmission of shares, Demat/remat, issue of duplicate shares, transposition of holders, etc. and investor entitlements like corporate benefits, dividend, bonus shares, rights entitlements, credit of securities in public issue, interest /coupon payments on securities, etc.

- SEBI after consultation with Stock Exchanges/Registrars and Share Transfer agents (RTAs) partially modified the circular for the Standard Operating Procedures(SOP) to be followed by listed entities and Register and Share Transfer Agents and its Shareholders /investors.

- The SOP prescribes that the Arbitration Mechanism shall be initiated post exhausting all actions for resolution of complaints including those received through SCORES Portal. The Arbitration reference shall be filed with the Stock Exchange where the initial complaint has been addressed.

- The provisions of this Circular shall come into force with effect from June 01, 2022.

To read the circular in detail please click here

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