Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
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Week – April 04th to April 09th

Quote for the week:

'Education is the most powerful weapon which you can use to change the world'

–Nelson Mandela"

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**") Securities and Exchange Board of India ("**SEBI**") and orders passed by the, SEBI and High Court.

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

- **MCA amends the Companies (Management and Administration) Rules 2014 consisting of provisions for inspection of Registers and documents.**

- **SEBI revises the UPI limits for the public issue of Equity Shares and convertibles for individual investors.**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of April 04, 2022 to April 09, 2022.

Thank you,
Swift team

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REGULATORY UPDATES

MCA

1. MCA issues Companies (Management and Administration) Amendment Rules 2022 wherein sub rule (3) of Rule 14 has been inserted.

- The Ministry of Corporate Affairs **("MCA")** vide notification dated April 06, 2022 amended the Rule 14 of Companies (Management and Administration) Rules, 2014 relating to inspection of registers and returns.

- The amendment states that: -

  "Notwithstanding anything contained in sub-rules (1) and (2), the following particulars of the register or index or return in respect of the members of a company shall not be made available for any inspection under sub-section (2) or for taking extracts or copies under sub-section (3) of section 94, namely

  - *Address or registered address (in case of a body corporate);*
  - *e-mail ID;*
  - *Unique Identification Number;*
  - *PAN Number".*

To read the notification in detail, please click here

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SEBI

1. **SEBI revises the UPI limits for public issue of Equity Shares and convertibles for individual investors under Application Supported by Blocked Amount (ASBA).**

- SEBI vide circular dated April 05, 2022 revised the UPI limits for public issue of Equity Shares and convertibles for all individual investors under the Application Supported by Blocked Amount (ASBA) up to INR 5,00,000 (INR Five lakhs).

- It has been decided that such investors where Application Supported by Blocked Amount (ASBA) is up to INR 5,00,000 (INR Five lakhs) shall use Unified payment Interface **("UPI")** and shall also provide UPI ID in the bid-cum-application form submitted with any of the entities mentioned below :-

  - Syndicate member
  - Stockbroker registered with a recognized stock exchange
  - Depository Participant ('DP')
  - Registrar to an issue and share transfer agent ('RTA')

- This circular shall come into force with effect from May 01, 2022.

To read the Circular in detail, please click here.

2. **SEBI issues the circular for execution of Demat Debit and Pledge Instruction ("DDPI") for transfer of securities towards deliveries / settlement obligations and pledging / re-pledging of securities.**

- SEBI vide circular dated April 23, 2010 had issued guidelines regarding execution of Power of Attorney **("PoA")** by the client in favor of Stockbroker / Stockbroker and Depository Participant ("**POA Guidelines, 2010**"), Later clarifications were issued via SEBI Circular dated August 31, 2010,

- On August 27, 2020 new **POA Guidelines 2020** were issued which reiterated the following:

  - PoA is optional and should not be insisted upon by the stockbroker/stockbroker depository participant for opening of the client account.
  - PoA executed in favour of stockbroker/ stock broker depository participant by the client shall be utilized for transfer of securities held in beneficial owner account

of client and for pledging/re-pledging of securities in favour of trading Member/clearing Member.

- In order to make the process more transparent and simpler SEBI issued circular dated April 04, 2022 and added "**Demat Debit and Pledge Instruction" (DDPI)** under which the clients shall explicitly agree to authorize the stock broker/stock broker and depository participant to access their Beneficial Owner (BO) account for the limited purpose of meeting pay-in obligations for settlement of trades executed by them. The DDPI shall serve the same purpose of PoA and significantly mitigate the misuse of PoA.

- The client may use the DDPI or opt to complete the settlement by issuing physical Delivery Instruction Slip **(DIS)** or electronic Delivery Instruction Slip **(eDIS)** themselves.

- This circular shall come into force with effect from July 01, 2022.

To read the Circular in detail, please click here.

3. SEBI issues the Circular pursuant to amendment in SEBI KYC Registration Agency (KRA) regulations 2011.

- SEBI vide circular dated April 06, 2022 issued additional guidelines amending the SEBI KYC Registration Agencies **("KRA")** regulations 2011. In order to implement this regulations, SEBI has issued additional guidelines, some of them are mentioned below.

  - KRAs shall independently validate records of those clients (existing as well as new) whose KYC has been completed using Aadhaar as an OVD. The records of those clients who have completed KYC using non-Aadhaar OVD shall be validated only upon receiving the Aadhaar Number.

  - During the process of validation, KRAs shall validate the following details:
    a. Aadhaar through Unique Identification Authority of India (UIDAI) authentication/verification mechanism.
    b. Mobile number and e-mail ID using OTP validation (only in cases where mobile number and e-mail ID provided by client are not seeded with Aadhaar)
    c. PAN using the Income Tax Database.

  - The validation of all KYC records (new and existing) shall commence from July 01, 2022.

To read the Circular in detail, please click here.

4. SEBI issues the Circular clarifying the applicability of Regulations of the SEBI (LODR) Regulations, 2015 in relation to Related Party Transactions

- SEBI vide circular dated April 08, 2022 issued clarification on applicability of Regulation 23(4) read with Regulation 23(3)(e) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions.

- SEBI LODR Regulations specifies that omnibus approval granted by the audit committee shall be valid for a period not exceeding one year and shall require fresh approvals after expiry of one year and on the requirement of shareholder approval for material related party transactions (RPTs).

- As per Section 96(1) of the Companies Act, 2013, which specifies that the time gap between two Annual General Meetings (AGMs) cannot be more than fifteen months. Representations have been received seeking clarity on the period of validity of the omnibus approval where the transactions are material and shareholders' approval is also required.

- In order to facilitate listed entities to align their processes to conduct AGMs and obtain omnibus shareholders' approval for material RPTs, it has been decided to specify that the shareholders' approval of omnibus RPTs approved in an AGM shall be valid upto the date of the next AGM for a period not exceeding fifteen months. Further, In case of omnibus approvals for material RPTs, obtained from shareholders in general meetings other than AGMs, the validity of such omnibus approvals shall not exceed one year.

To read the Circular in detail, please click here.

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JUDGEMENT / ORDERS

SEBI Order

1. SEBI imposes penalty of Rs.5,00,000/- for dealings in illiquid stock options at BSE.

- Securities and Exchange Board of India **("SEBI")** observed a largescale reversal of trades in the stock options segment of Bombay Stock Exchange **("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 (hereinafter referred to as "**Investigation Period**"). During the course of investigation, it was observed that Vinay Sodha (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**").

- Therefore, it is alleged that Noticee had executed the reversal trades which were non-genuine in nature and have created false or misleading appearance of trading in terms of creation of artificial volume in the Stock Options segment at BSE and order was passed and penalty of INR 5,00,000/- (INR Five Lakh only) was imposed on Noticee.

To read the order in detail, please click here.

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HIGH COURT

1. **Delhi High Court appoints Former Chief Justice of High Court of Judicature at Mumbai, as the Arbitral Tribunal to adjudicate the claims and counter claims**

IIFL Finance Limited	Petitioner
Mr. Vinay Jain	Respondent
Best View Properties Limited	Respondent

Date of Judgement: April 05, 2022

Pursuant to a Credit Facility Agreement and Deed of Guarantee, the petitioner seeks appointment of Arbitral Tribunal. Both the documents were signed by Mr. Vinay and the Director of the respondent Company, respectively.

There was a loan transaction between M/s AVJ Developers India Private Ltd. which had availed three term loans of INR 25,00,00,000 (INR Twenty-Five crores), INR 75,00,00,000 (INR Seventy-Five Crores) and INR 35,00,00,000 (INR Thirty-Five Crores). However, the total amount disbursed as per the petitioner to the said debtor, AVJ Developers India Private Limited was INR 123,00,00,000 (INR One Hundred and Twenty-Three Crores). The Petitioner informed that, as the management of the said borrower wanted to regularize the three loan accounts, petitioners were approached by the Directors of AVJ Developers India Private Limited, for sanction of new credit facility in favour of Mr. Vinay Jain so that adjustment could be made to avoid the three loan accounts becoming irregular. Further, the Petitioner had sanctioned a loan of INR 85,00,00,000 (INR Eighty Five Crores) in favour of Mr. Vijay Jain backed by the guarantee of M/s. AVJ Developers India Private Ltd. and M/s Best View Properties Ltd and the said INR 85,00,00,000 (INR Eighty Five Crores) were disbursed to the escrow account of AVJ Developers India Private Ltd. Out of the said amount, for the purposes of regularizing the three accounts, AVJ Developers India Private Ltd. deposited various amounts to the three term loan accounts which were then regularized and the liability of the three existing loan accounts with the petitioner were reduced.

the allegation of fraud as noticed though raised by the respondent, is not sustainable in view of the factual narration with regard to the petitioner in an attempt to prevent the loan accounts of AVJ Developers India Private Ltd. from becoming non-performing assets and also particularly in view of the fact that there is a banking transaction to show disbursal of the loan of INR 85,00,00,000 (INR Eighty Five Crores) which has got adjusted towards the then existing three loan accounts of AVJ Developers India Pvt. Ltd. and further from the fact that the agreements are admittedly signed by Mr. Vinay Jain.

The petition was allowed and the former Chief Justice of High Court of Judicature at Mumbai is appointed as the Arbitral Tribunal to adjudicate the claims and counter claims, if any and the arbitrator shall make the disclosure under Section 12 within two weeks of entering reference.

To read the Judgement 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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