Swift e-Bulletin
Edition 33rd 22-23
Week – November 28th to December 2nd

__Quote for the week:__

"Every moment is a fresh beginning"

– T.S. Eliot.

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**"), International Financial Services Centres Authority ("**IFSCA**") and Reserve Bank of India ("**RBI**") and orders passed by the SEBI and NCLAT.

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

- ❖ SEBI Vide Circular dated December 01, 2022 issued Operational Circular for listing obligations and disclosure requirements for Non-Convertible Securities, Securitized Debt Instruments and/or Commercial Paper.

- ❖ RBI vide Circular dated December 1, 2022 notified Compliance with statutory/regulatory norms for operations of subsidiaries and branches of Indian banks and All India Financials Institutions ("AIFIs") in foreign jurisdictions and in International Financial Services Centers ("IFSCs").

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of November 28th to December 2nd.

Thank you,
Swift team

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REGULATORY UPDATES

SEBI

1. **SEBI vide Circular dated December 01, 2022 notified Extension of timeline for implementation of Standardized industry classification by Credit Rating Agencies ("CRAs")**

- SEBI vide Circular dated April 01,2022 had advised CRAs to implement standardized industry classification by September 30,2022. Subsequently SEBI revised the guidelines on September 30,2022 and extended the timeline for implementation till November 30,2022.

- CRAs have been making representation and requesting for extension of the date of applicability of the standardized industry classification.

- SEBI in view of these representation has decided to extend the date of applicability of the standardized industry classification till ***December 15, 2022.***

- The said Circular is applicable to all CRAs registered with SEBI and all recognised stock exchanges.

To read the Circular in detail, please click here

2. **SEBI vide Circular dated November 29, 2022 Introduced credit risk based single issuer limit for investment by mutual fund schemes in debt and money market instruments.**

- As per the Regulation 44(1) read with clause 1 of Seventh Schedule of SEBI (Mutual Funds) Regulation, 1996 ("MF Regulation"), a mutual fund scheme shall not invest more than 10% of its Net Asset Value ("NAV") in debt instruments issued by single issuer comprising money market securities and non-money market securities rated investment grade or above by a Credit Rating Agency. However, this overall investment limit may be extended to 12% of the NAV of the scheme with the prior approval of the Board of Trustees and Board of Directors of the Asset Management Company ("AMC").

- SEBI vide Circular dated May 23, 2022 had introduced credit risk based single issuer limits of debt ETFs/Index Funds on "Development of Passive Funds" in order to effectively manage the risk associated with such investments.

- SEBI vide the said Circular has decided to introduce a similar credit rating based single issuer limit for actively managed mutual fund schemes in order to avoid inconsistency in investment by mutual funds in debt instruments of an issuer, irrespective of the scheme being actively or passively managed.

- Accordingly, as specified in the clause 1 of Seventh Schedule of the MF regulation the following prudential limit shall be followed, for schemes issued by single issuer other than Credit risk funds: -

  The Mutual fund scheme shall not invest more than:

  a. 10% of its NAV in debt and money market securities rated AAA; or
  b. 8% of its NAV in debt and money market securities rated AA; or
  c. 6% of its NAV in debt and money market securities rated A and below.

- However, the above mentioned limits may be extended by up to 2% of the NAV of the scheme with prior approval of the Board of Trustees and Board of Directors of the AMC subjected to compliance with the overall 12% limit specified in clause 1 of Seventh Schedule of MF regulation.

- Issuers long term rating shall be considered for the money market instruments. In case of no long term rating available for the same issuer, the based on credit mapping of CRAs between short term and long term ratings, the most conservative long term rating shall be taken for a given short term rating.

- Further Exposure to government money market instruments such as TREPS on G-Sec/T-bills shall be treated as exposure to government securities.

- The existing schemes have been exempted from these guidelines till the maturity of the underlying debt and money market securities. The said Circular is applicable to all the new schemes to be launched with effect from date of issuance of the Circular.

To read the Circular in detail, please click here.

3. **SEBI vide Circular dated December 01, 2022 issued Operational Circular for listing obligations and disclosure requirements for Non-Convertible Securities, Securitized Debt Instruments and/or Commercial Paper.**

- SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('**Listing Regulations**'), prescribes the continuous disclosure requirements for issuers of listed Non-Convertible Securities, Securitized Debt Instruments and Commercial Paper.

- Multiple Circulars have been issued, over the years, covering the operational and procedural aspects thereof. For effective regulation of the corporate bond market and to enable the issuers and other market stakeholders to get access to all the applicable Circulars at one place this Operational Circular has been prepared i.e. to say this acts as a Master Circular containing all the previous Circulars made up to December 01, 2022.

- Additionally, this Circular features the following:

  - format for submission of statement indicating the utilization of issue proceeds of listed Non-Convertible Securities to the Stock Exchange(s), by the listed entities, as required under Regulation 52(7) of the Listing Regulations, has been included in Chapter IV.

  - Further, Chapter XI has been included, containing format for review of rating obtained by the listed entity with respect to its non-convertible securities from Credit Rating Agency(ies) registered with SEBI, as required under Regulation 55 and formats for submissions to be made by listed entity to the stock exchanges for interest/dividend/principal under Regulations 57(1), 57(4) and 57(5) of the Listing Regulations.

  - While this Circular covers instruments under the NCS Regulations, Chapter X contains provisions applicable to issue of Securitized Debt Instruments under the SEBI (Issue and Listing of Securitized Debt Instruments and Security Receipts) Regulations, 2008. This has been accordingly indicated in the chapter.

To read the Circular in detail, please click here.

4. SEBI vide Circular dated November 28, 2022 streamlines the procedure for seeking prior approval for change in control.

- SEBI registered intermediaries like stock broker/clearing member, depository participant, investment adviser, research analyst or research entity, registrar to an issue and share transfer agent and KRA are required to take prior approval from SEBI for any change in their control.

- SEBI vide this Circular Streamlined the process of seeking prior approval in case of change in control where:

  - Such a Change is not a result of scheme(s) of arrangement which needs sanction of the National Company Law Tribunal ("NCLT") in terms of the provisions of the Companies Act, 2013.
  - Such a Change is a result of scheme(s) of arrangement which needs sanction of the National Company Law Tribunal ("NCLT") in terms of the provisions of the Companies Act, 2013.

To read the Circular in detail, please click here.

5. **SEBI vide Circular dated November 30, 2022 reviewed timelines and standardised for listing of securities issued on a private placement basis.**

- SEBI has received feedback from market participants to consider standardizing the pre-listing processes and revision of the time gap between credit confirmation and ISIN activation in order to bring about efficiency in the market.

- With this Circular SEBI bought in efficacy in the listing process and to expedite the availability of securities for trading by the investors, the timeline for listing is being reduced from T+4 to T+3 days (wherein T refers to issue closure date).

- Additionally, in terms of Regulation 6 of the SEBI (Issue and listing of Non-Convertible Securities) Regulations, 2021 and Regulation 4A of the SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015, timelines for making an application for in-principle approval to the stock exchange(s) where the issuer intends to list its securities and/ or receipt of in-principle approval from the stock exchange(s), are being incorporated.

- SEBI Additionally, the extant Chapter VII (Standardization of timelines for listing of securities issued on a private placement basis) of the aforementioned Operational Circular is being replaced with a revised Chapter, as enclosed as Annexure to the Circular.

- The provisions of this Circular shall come into effect from ***January 1, 2023.***

To read the Circular in detail, please click here.

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RBI

1. **RBI vide Circular dated December 1, 2022 notified Compliance with statutory/regulatory norms for operations of subsidiaries and branches of Indian banks and All India Financials Institutions (“AIFIs”) in foreign jurisdictions and in International Financial Services Centers (“IFSCs”).**

- RBI vide the said Circular has issued instructions to Indian banks and AIFIs on the issue of dealing in financial products by their branches/subsidiaries operating outside India.

- RBI permits the foreign branches/foreign subsidiaries of Indian banks/AIFIs to deal in financial products, including structured financial products, which are not available or are not permitted by the RBI in the domestic market without prior approval of RBI, subjected to compliance specified in the said Circular and those prescribed by the host regulator.

- RBI notified that the branches/subsidiaries of Indian banks/AIFIs operating in IFSCs including those operating out of GIFT City may also deal in financial products, including structured financial products which are not available or are not permitted by the RBI in domestic market subject to compliance with all applicable laws/regulations and conditions specified in the said Circular and those prescribed by the host regulator.

- The conditions for dealing in financial products are as follows, the parent Indian bank/AIFI shall ensure that

    a. dealing in such products is done with the prior approval from their Board and, if required, the appropriate authority in the concerned jurisdictions.
    b. they have adequate knowledge, understanding, and risk management capability for handling such products.
    c. they act as market makers for products only if they have the ability to price/value such products and the pricing of such products is demonstrable at all times.
    d. their exposure and mark-to-market (MTM) on these products are appropriately captured and reported in the returns furnished to the Reserve Bank. They shall provide information about dealing in such financial products as may be specified by the Reserve Bank in the manner and format and within the time frame as prescribed by the Reserve Bank.
    e. They do not deal in products linked to Indian Rupee unless specifically permitted by Reserve Bank.
    f. they do not accept structured deposits from any Indian resident; and

g. they adhere to the suitability and appropriateness policies as mandated by the Reserve Bank and the host regulators, as applicable.

- The foreign branches and subsidiaries as well as IFSCs shall be subjected to prudential norms such as capital adequacy, exposure norms (including Large Exposure Framework), periodical valuation and all other applicable norms.

- The parent bank/AIFI shall seek specific guidance from RBI in case the current norms of the RBI do not specify prudential treatment of any financial product

- The activities of foreign/subsidiaries in foreign jurisdictions and IFSCs shall be subjected to Indian laws, unless specifically exempted by law.

- The erstwhile Circulars relating to aforesaid topic stands repealed

To read the Circular in detail, please click here.

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IFSCA

1. **IFSCA vide Notification notifies International Financial Services Centres Authority (Maintenance of Website) Regulations, 2022.**

- IFSCA vide this Notification will regulate the aspects of development, design and other relevant guidelines for maintenance of a website (**IFSCA's Website**).

- These Regulations are divided into 4 chapters as mentioned below:

  - **PRELIMINARY:** This chapter majorly contains the relevant definition of the regulation.
  - **MAINTENANCE OF WEBSITE:** This chapter deals with the extant guidelines on how to maintain and operate a website.
  - **CONTENT ON WEBSITE:** This chapter deals on what content to be displayed on the website of the Authority.
  - **SECURITY AND AUDIT:** This chapter grants power to Authority to IFSCA to take adequate steps for cyber security and audit.

To read the Notification in detail, please click here.

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JUDGEMENTS/ ORDERS

SEBI

1. SEBI imposed penalty on Vitthal Corporation Limited (Notice) for non-compliances of SEBI (Disclosure and Investor Protection) Guidlines, 2000.

- SEBI had investigated the scrip of Vitthal Corporation Limited (Noticee) to identify the instances of non-compliances with SEBI (Disclosure and Investor Protection) Guidelines, 2000 ("DIP Guidelines").

- During the examination, it was observed that Noticee had issued NCRPS in the examination period. However, some discrepancies were observed regarding the details of allotment of NCRPS between information provided by Noticee and ROC, Pune. It was alleged that Noticee made public issue of NCRPS without complying with provisions of Sections 73, 60 and 56 of the Companies Act, 1956 further violating the provisions of DIP Guidelines in respect of public issue of NCRPS during the Financial Year 2008-09.

- The Adjudicating Officer ("**AO**") issued Show Cause Notice ("**SCN**") to the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed for the alleged violation.

- After receiving the reply from the Noticee and after considering all the facts and circumstances of the case, the nature and gravity of the violations. The AO passed the order and imposed penalties on Noticee under Section 15-HB of SEBI Act, 1992.

To read the Order in detail, please click here.

2. Adjudication Order in the matter of Titan Company Limited

- SEBI had investigated in the scrips of Titan Company Limited ('**TCL**') and observed several non-compliances of PIT Regulations during the Investigation period by employees/ designated persons of TCL (collectively known as '**Noticees**'). Pursuant to investigation, SEBI initiated adjudication proceedings against Noticees for alleged violation of PIT Regulations by Noticee.

- During the investigation, it was observed that the traded value of securities by Noticees in different calendar quarters during the Investigation period had exceeded rupees ten lakhs in multiple occasions ranging from 3 to 99 occasions. Therefore, for the transactions, which were in excess of the limit specified in Regulation 7(2)(a) of PIT Regulations, Noticees were required to make disclosure in terms of aforesaid regulation. In this regard, it was confirmed from TCL that it had not received any disclosures from Noticees. Hence, it was alleged that Noticees has violated the Regulations by not making disclosures as required.

- The Adjudicating Officer ("AO") issued Show Cause Notice ("SCN") to the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed for the alleged violation.

- After receiving the reply from the Noticee, taking into account the findings and in exercise of powers conferred under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, the Adjudication officer disposed off the proceedings against the Noticees without imposition of any penalty.

To read the Order in detail, please click here.

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NCLAT

1. **NCLAT holds order passed by NCLT under section 230 of the Companies Act.**

- An appeal was filed under Section 421 of the Companies Act, 2013 against part of an order whereby an application filed by the Appellant has not been entertained by NCLT purely on the ground that same was not maintainable, in view of proviso, to Section 230(4) of the companies act. A joint application was filed by the Company namely MC Data Systems Pvt. Ltd. (Transferor Company), Inswell IT Applications Pvt. Ltd. (Transferor Company) and Infinite Computer Solutions (India) Ltd. (Transferee Company) in relation to the Scheme of Arrangement between the petitioner companies under Section 230-232 and Section 66 of the Companies Act, 2013 and other applicable provisions.

- The Appellant being one of the shareholder filed an application under Rule 11 of the NCLT Rules, 2016 with a prayer to reject reduction of capital in relation to small shareholders and to direct the transferee company to give a fair chance to all small shareholders. However, the NCLT considering the fact that in old Act i.e. Companies Act, 1956 though there was no such rider but in the new Act i.e. Companies Act, 2013 proviso has been inserted in Section 230(4) of the Companies Act, 2013.

- The Appellant tried to persuade the court that even under the provisions of Section 230 (7) and (11) the NCLT was required to examine the issue. However, on examination of the limit prescribed under the proviso to Sub-Section 4 of Section 230 of the Act of 2013, NCLAT did not find that NCLT had committed any error and as such there is no reason to interfere with the impugned order and appeal was dismissed.

To read the Order in detail, please visit https://nclat.nic.in/display-board/judge.

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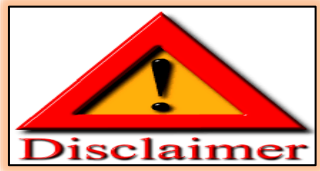

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About Swift

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