Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin

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Week – October 23rd to October 27th

Quote for the week:

“Creativity takes courage”

– *Henri Matisse (French visual artist)*

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**”) and International Financial Services Centres Authority (“**IFSCA**”)

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

- **MCA vide Notification dated October 20, 2023 issued Companies (Incorporation) Third Amendment Rules, 2023.**

- RBI vide Notification dated October 25, 2023 notified the presentation of Unclaimed Liabilities transferred to Depositor Education and Awareness (DEA) Fund.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of October 23rd to October 27th.

Thank you,
Swift team

REGULATORY UPDATES

MCA

1. **MCA vide Notification dated October 20, 2023 issued Companies (Incorporation) Third Amendment Rules, 2023.**

- MCA vide this Notification has amended the Companies (Incorporation) Rules, 2014, namely:

  - In rule 30, in sub-rule (9), (i) the words “and may include such order as to costs as it thinks proper" shall be omitted.

  - After the proviso in rules 30, sub- rule 9 (ii), the following proviso shall be inserted, namely: “Provided further that where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency Bankruptcy Code, 2016 (31 of 2016) and no appeal against the resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or initiated after the approval of the said resolution plan, the shifting of the registered office may be allowed.”

- These amendments shall come into effect from ***October 21, 2023***.

To read the Notification in detail, please click here.

RBI

1. **RBI vide Notification dated October 25, 2023 notified the presentation of Unclaimed Liabilities transferred to Depositor Education and Awareness (DEA) Fund.**

- RBI notified the requirement for Commercial Banks to present all unclaimed liabilities, where the amount due has been transferred to the Depositor Education and Awareness (DEA) Fund established under the DEA Fund Scheme, 2014, under 'Schedule 12- Contingent Liabilities – Other items for which the bank is contingently liable' vide Annexure – II of the Reserve Bank of India Master Direction on Financial Statements - Presentation and Disclosures.

- With a view to maintain consistency within the reporting done by all the Commercial Banks, it is advised that all co-operative banks shall present all unclaimed liabilities (where the amount due has been transferred to DEA Fund) under "Contingent Liabilities – Others".

- Subsequently all the Banks are ought to specify in the Notes to Accounts disclosure made on "Transfers to DEA Funds", that balances of the amount transferred to DEA Fund are included under '**Schedule 12 - Contingent Liabilities - Other items for which the bank is contingently liable**' or '**Contingent Liabilities – Others**'.

- The said instructions are applicable to all Commercial Banks and Cooperative Banks in the preparation of their Financial Statements for the FY ending March 31, 2024 and upwards.

To read the Notification in detail, please click here.

2. **RBI vide Notification dated October 26, 2023 reviewed the Instructions on Bulk Deposits for Regional Rural Banks (RRBs).**

- Pursuant to the review of the of Master Direction - Reserve Bank of India (Interest Rate on Deposits) Directions, 2016 dated March 3, 2016, it had been decided to enhance the bulk deposit limit for the Regional Rural Banks (RRBs).

- Subsequently, the definition of "**Bulk Deposit**" has been modified in those lines with regards to RRBs only.

- The limits for Scheduled Commercial Banks and Small Finance Banks has been unaltered.

- Earlier Bulk Deposit with respect to RRBs meant **Single Rupee term deposits of Rupees Fifteen Lakh and above**; however, now the limit has been changed to **Rupees One Crore and above**.

To read the Notification in detail, please click here.

3. **RBI vide Notification dated October 26, 2023 notified on the joining of the Account Aggregator Ecosystem as Financial Information User by certain entities.**

- Pursuant to the said Notification RBI has modified the Master Direction – Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016.

- Certain entities which are eligible to join as Account Aggregator (AA) ecosystem as Financial Information Provider (FPI) have been on boarded as Financial Information User (FI-U) only.

- Owing to this, certain entities are accessing financial information from other FPIs but not providing the financial information held by them.

- In order to facilitate efficient and optimum utilisation of the AA ecosystem, it has been decided that regulated entities of the Bank joining the AA ecosystem as FI-U shall necessarily join as FIP also, in cases where they hold the specified financial information and fall under the definition of FIP.

To read the Notification in detail, please click here.

4. **RBI vide Notification dated October 26, 2023 issues framework for compensation to customers for delayed updation/ rectification of credit information.**

- Under para 4 of the Statement on developmental and regulatory policies released with the bi-monthly monetary policy statement 2023-24 on April 6, 2023, wherein it was announced, inter alia, that a compensation mechanism will be put in place for delayed updation/rectification of credit information by the credit institutions (**"Cis"**) and credit information companies (**"CICs"**).

- The RBI through this Notification directs CICs and CIs to implement the compensation framework for delayed updation/rectification of credit information by CIs and CICs as detailed below:

  - Complainants shall be entitled to a compensation of ₹100 per calendar day in case their complaint is not resolved within a period of thirty (30) calendar days from the date of the initial filing of the complaint by the complainant with a CI/ CIC.

  - A CI shall pay compensation to the complainant if the CI has failed to send updated credit information to the CICs by making an appropriate correction or addition or otherwise within twenty-one (21) calendar days of being informed by the complainant or a CIC.

  - A CIC shall pay compensation to the complainant if the CIC has failed to resolve the complaint within thirty (30) calendar days of being informed by the complainant or a CI.

- Compensation to be provided by the CICs/ CIs to the complainant (for delayed resolution beyond thirty (30) calendar days of filing the complaint) shall be apportioned among the CIs/ CICs concerned proportionately. Illustrative examples of the same are given in Annex to this notification.

- The compensation amount shall be credited to the bank account of the complainant within five (5) working days of the resolution of the complaint.

- The complainant can approach RBI Ombudsman, under the Reserve Bank - Integrated Ombudsman Scheme, 2021, in case of wrongful denial of compensation by CIs or CICs.

- The compensation framework shall come into effect six (6) months from the date of this circular. CICs and CIs are directed to put in place necessary systems and processes to implement the compensation framework within this period.

- CICs and CIs which contravene or default in adherence to the above directions shall be liable for penal action as per the provisions of CICRA, 2005

To read the Notification in detail, please click here.

5. **RBI vide Circular dated October 26, 2023 issues Master Direction on Interest Rate on Non-Callable Deposits.**

- In terms of the instructions contained in Section 7 of the Master Direction (MD) on Interest Rate on Deposits dated March 03, 2016 and Master Direction - Reserve Bank of India (Co-operative Banks - Interest Rate on Deposits) Directions, 2016 dated May 12, 2016, banks have been permitted to offer domestic term deposits (**"TDs"**) without premature withdrawal option, provided that all TDs accepted from individuals for an amount of Rupees fifteen lakh and below shall have premature withdrawal-facility.

- Further, the banks have also been permitted to offer differential rate on interest on TDs based on non-callability of deposits (i.e., non-availability of premature withdrawal option) in addition to tenor and size of deposits.

- It has now been decided that (i) the minimum amount for offering non-callable TDs may be increased from Rupees fifteen lakh to Rupees one crore i.e., all domestic term deposits accepted from individuals for amount of Rupees one crore and below shall have premature-withdrawal-facility and (ii) these instructions shall also be applicable for Non-Resident (External) Rupee (NRE) Deposit / Ordinary Non-Resident (NRO) Deposits.

- Accordingly, the relevant sections of the Master Direction have been amended as indicated in the Annex attached to this notification.

To read the Circular in detail, please click here.

6. **RBI vide Notification dated October 26, 2023 issues Master Direction on Review of Financial Information Provider (FIP) under Account Aggregator Framework.**

- Pursuant to the said Notification RBI has notified the Master Direction – Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016 defining the term 'Financial Information Provider'.

- National Pension System (**"NPS"**) architecture, Central Recordkeeping Agency (**"CRA"**), registered under section 27 of the Pension Fund Regulatory and Development Authority (PFRDA) Act, 2013, acts as an interface between the different intermediaries in the NPS system. CRAs hold information pertaining to the subscribers including the balances under NPS

- Accordingly, and as suggested by the PFRDA, it has been decided to replace 'Pension Fund' with 'Central Recordkeeping Agency' as the financial information provider in the AA ecosystem.

- The Master Direction – Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016, is being modified accordingly.

To read the Notification in detail, please click here

7. **RBI vide Notification dated October 25, 2023 issued instructing all private sector banks and wholly owned subsidiaries of foreign banks with respect to appointment of whole-time director(s)**

- RBI vide Notification Corporate Governance in Banks – Appointment of Directors and Constitution of Committees of the Board dated April 26, 2023 had issued instructions w.r.t Tenures of MD, CEO and WTD.

- RBI considering the growing complexity of the banking sectors and to overcome the ongoing and emerging challenges in the banks, thinks its imperative to establish an effective senior management team.

- According to RBI Establishment of such a team may also facilitate succession planning, especially in the background of the regulatory stipulations in respect of tenure and upper age limit for Managing Director and Chief Executive Officer (MD&CEO) positions.

- In order to address these issues, banks are now advised to ensure the presence of at least two Whole Time Directors ("WTD"), including the MD & CEO, on their Boards.

- The number of WTDs shall be decided by the Board of the bank by taking into account factors such as the size of operations, business complexity, and other relevant aspects.\

- The banks that do not meet the minimum requirements in the said circular advised to submit their proposals for the appointment of WTD(s) under Section 35B(1)(b) of the Banking

Regulation Act, 1949, within a period of four months from the date of issuance of the said circular.

- Banks which do not already have the enabling provisions regarding appointment of WTDs in their Articles of Association may first seek necessary approvals under Section 35B(1)(a) of the Act ibid, expeditiously, to comply with the requirements under these instructions.

- The said circular shall be applicable to all private sector banks and wholly owned subsidiaries of foreign banks (excluding payment banks and local area banks.

To read the Notification in detail, please click here.

8. **RBI vide Notification dated October 26, 2023 issued directions on Strengthening of customer service rendered by Credit Information Companies and Credit Institutions.**

- RBI vide its Statement on Developmental and Regulatory Policies released with the Bi-monthly Monetary Policy Statement 2023-24 on April 06, 2023 had announced that a comprehensive framework will be put in place for strengthening and improving the efficacy of the grievance redress mechanism and customer service provided by the Credit Institutions (CIs) and Credit Information Companies (CICs).

- Accordingly, RBI vide the said Notification under Credit Information Companies (Regulation) Act, 2005 inter alia directs CICs and CIs to implement the directions as detailed below:

  - CICs shall send alerts through SMS/ email to customers when their Credit Information Report is accessed by the Specified Users (SUs) wherever mobile number/ email ID details of the customers are available. The alerts shall be sent by CICs only when the CIR enquiry reflects in the CIR of the customer.

  - CIs shall send alerts through SMS/ email to customers while submitting information to CICs regarding default/ Days Past Due in existing credit facilities, wherever the mobile number/email ID details are available.

  - CIs shall have a dedicated nodal point/ official of contact for CICs for redress of customer grievances. Details of the nodal point/ official along with email ID and telephone/ mobile number shall be furnished by CIs to CICs

  - CIs shall undertake Root Cause Analysis (RCA) of the customer grievances at least on a half yearly basis. CIs shall also use, among others, information on data rejected by the CICs and Data Quality Index (DQI) provided by CICs as sources of information for carrying out RCA. Such analysis shall be reviewed by the Top Management of CIs on an annual basis.

- Cls shall inform the customers the reasons for the rejection of their request for data correction, if any, to enable such customers to better understand the issues in the CIR.

- CICs shall ingest credit information data received from the Credit Institutions (CIs) as per its data acceptance rules, into their databases within seven (7) calendar days of its receipt from the CIs.

- CICs shall disclose on their websites, details of complaints registered against them and CIs.

- CICs shall provide easy access to Free Full Credit Report1 (FFCR) including credit score, once in a year (January- December), to individuals whose credit history is available with the CIC by displaying the link prominently on their website (on the Home page itself) so that individuals are able to access their FFCR conveniently.

- CICs and CIs which contravene or default in adherence to the above directions shall be liable for penal action as per the provisions of CICRA, 2005.

- The said directions shall come into effect six months from the date of this circular. CICs and CIs are directed to put in place necessary systems and processes to implement these directions within this period.

- The said circular All Commercial Banks (including Small Finance Banks, Local Area Banks and Regional Rural Banks, and excluding Payments Banks), All Primary (Urban) Co-operative Banks/ State Co-operative Banks/ Central Co-operative Banks, All Non-Banking Financial Companies (including Housing Finance Companies), All-India Financial Institutions (Exim Bank, NABARD, NHB, SIDBI and NaBFID), All Asset Reconstructions Companies and All Credit Information Companies.

To read the Notification in detail, please click here.

IFSCA

1. **IFSCA vide Circular dated October 20, 2023 made applicable the procedure for implementation of Section 12A of "The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005" to the regulator and regulated entities.**

- IFSCA vide Circular dated October 20,2023 made applicable an order on the procedure for implementation of Section 12A of the weapons of mass destruction and their delivery systems (Prohibition of Unlawful Activities) Act, 2005 passed by department of revenue, ministry of finance dated September 01, 2023.

- The said order will now be applicable to the regulator, International Financial Services Authority (**"IFSCA"**) and all regulated entities in International Financial Services Centre, GIFT City (**"IFSC"**) who shall adhere to the same and the undersigned, UAPA Nodal Officer & Head – Division of AML & CFT has been designated as Nodal Officer for the implementation of the said order.

- The said order is applicable to all regulated entities in GIFT-IFSC

To read the Circular in detail, please click here.

2. **IFSCA vide Circular October 23, 2023 issued Modifications under the International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022.**

- IFSCA referring to International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022 has issued the said modifications.

- Further, Government of India dated October 17, 2023 has amended the Prevention of Money-laundering (Maintenance of Records) Rules, 2002. Accordingly, the Authority hereby specified inter alia the following modifications, in the said guidelines:-

    - Under sub-point (d) of the clause 8(iii) of Part-II of the Annexure-I of the Guidelines, the following has been inserted:-

        - the names of the beneficiaries, trustees, settlor, protector, if any and authors of the trust and the address of the registered office of the trust; and

        - list of trustees and documents as are required for individuals under sub-rule (4) of rule 9 of the Rules and Guidelines for those discharging role as trustee and authorised to transact on behalf of the trust'

- Under clause 12.1 (e) of the Chapter-XII of the Guidelines:-

    - Financial Groups are required to implement Group-wide programmes for the purpose of discharging obligations under the provisions of Chapter-IV of the Act, Rules and Guidelines.

- The said Circular shall be applicable to all the Regulated Entities in the IFSC

To read the Circular 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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