Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin

Week – March 11th to March 16th

Quote for the week:

“Eighty percent of success is showing up.”

–Woody Allen *(American filmmaker and actor)*

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 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**”), Reserve Bank of India (“**RBI**”), International Financial Services Authority (“**IFSCA**”) and SEBI ORDERS.

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

- **SEBI vide circular dated March 08, 2024 issued circular Securities and Exchange Board of India (Index Providers) Regulations, 2024.**

- **IFSCA vide circular date March 11, 2024 issued Clarifications in relation to Fund Management Entities and Schemes set up in IFSCs by Sovereign Wealth Funds**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements/ orders issued during the week of March 11th to March 16th.

Thank you, Swift team

SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

1. **SEBI vide circular dated March 08, 2024, issued circular Securities and Exchange Board of India (Index Providers) Regulations, 2024.**

   - SEBI, by issuing the said regulation intends to provide for a regulatory framework for Index Providers in the securities market with the objectives of fostering transparency and accountability in governance and administrations of Indices.

   - The said regulations shall be applicable only to Index Providers that administer Significant Indices consisting of securities listed on a recognized stock exchange in India for use in the Indian securities market.

   - The regulation shall not be applicable to Index Providers, who administer: -

     - their Indices consisting only of global asset classes or consisting of global assets and Indian securities whether for use in the Indian securities market or elsewhere;

     - their Indices for exclusive use in a foreign jurisdiction

   - An entity intending to act as an Index Provider shall make an application for the grant of certification accompanied by a non-refundable applicable fee.

   - The Board shall consider the application only of the applicant satisfies the conditions mentioned in the said regulation.

   - Every Index Provider shall abide by the Code of Conduct specified in the Third Schedule of the said regulations.

   - The Index Provider shall constitute an oversight committee to govern all aspects of the benchmark determination process.

   - The Index Provider shall formulate policies and procedures to manage conflict of interest and protect the integrity and independence of the various functions performed in connection with the determination of its Indices.

   - An Index Provider shall put in place a control framework for calculating, maintaining and disseminating the Index which shall be documented and upon request, be made available to the Board.

   - An Index Provider shall formulate policies and procedures to address the need for possible cessation of an Index taking into account the estimated impact on Market Participants and Subscribers.

   - Index Provider shall provide for a dispute resolution mechanism and all claims, differences or disputes between the Index Providers and the subscribers arising out of or in relation to the activities of an Index Provider in the securities market shall be submitted to such a dispute resolution mechanism that includes mediation and/or conciliation and/or arbitration, in accordance with the procedure specified by the Board.

To read the circular in detail, please click here.

2. **SEBI vide circular dated March 12, 2024 issued Simplification and streamlining of Offer Documents of Mutual Fund Schemes – Extension of timelines.**

- SEBI vide circular dated November 01, 2023, prescribed simplified format of Scheme Information Document.

- Further, pursuant to request submitted by AMFI and discussions thereafter, it has been decided to revise the date of applicability of provisions as under: -

- Updated format of SID/KIM/SAI to be implemented w.e.f. June 01, 2024.

- Draft SIDs to be filed with SEBI on or before May 31, 2024, or SIDs already filed with SEBI (final observations yet to be issued) or SIDs for which the final observations have already been received from SEBI, can use the old format of SID, provided that the SIDs are updated as per the timeline i.e., June 30, 2024 with data as on May 31, 2024.

- Master circular dated May 19, 2023, w.r.t updation of SID and KIM within 1 month from the end of half year i.e. April 30, 2024 for half year ended March 31, 2024. In order to avoid duplication of efforts of AMCs as well as to ensure uniform implementation of revised formats the scheduled updation of SID and KIM for half year ended March 31, 2024 may be carried out by AMCs by June 30, 2024. This extension shall be applicable specifically for half year ended March 31, 2024 only.

- Further, all updated SIDs shall be made available on the website of SEBI/AMFI/AMCs within the timelines specified above.

- The said circular shall be applicable to Asset Management Companies, Trustee Companies/ Board of Trustees of Mutual Funds in India.

To read the circular in detail, please click here.

3. **SEBI vide circular dated March 13, 2024 issued circular repeal of circular(s) outlining procedure to deal with cases where securities are issued prior to April 01, 2014, involving offer / allotment of securities to more than 49 but up to 200 investors in a financial year.**

- SEBI through this circular stated that in respect of cases under the Companies Act, 1956, involving issuance of securities to more than 49 persons but up to 200 persons in a financial year, the companies may avoid penal action if they provide the investors with an option to surrender the securities and receive the refund amount at a price not less than the amount of subscription money paid along with 15% interest p.a. thereon or such higher return as promised to the investors. This opportunity to avoid penal action was provided to the issuer companies considering the higher cap for private placement provided in the Companies Act, 2013.

- In exercise of the powers conferred under section 11(1) of the Securities and Exchange Board of India Act, 1992, been decided to repeal the aforesaid circulars and the same shall stand rescinded with effect from 6 months from the date of issue of this circular, without prejudice to the operation of anything done or any action taken under the said circulars.

- The said option is available under the circular only to those companies who have completed the entire procedure and submitted the certificate in terms of circular.

- Accordingly, all cases involving an offer or allotment of securities to more than the permissible number of investors in a financial year shall be dealt with in line with the provisions contained under the extant applicable laws.

To read the circular in detail, please click here.

4. SEBI vide circular dated March 11, 2024 issued circular Measures to instill trust in securities market –Expanding the framework of Qualified StockBrokers (QSBs) to more stockbrokers.

- In order to strengthen the compliance and monitoring requirements of the stockbrokers through mandating enhanced obligations and responsibilities on stockbrokers, SEBI, vide circular stated four parameters shall be considered for designating a stockbroker as QSB, on an annual basis:

  - The total number of active clients of the stockbroker;

  - The available total assets of clients with the stockbroker;

  - The trading volumes of the stockbroker (excluding the proprietary trading volume of the stockbroker);

  - The end of day margin obligations of all clients of a stockbroker (excluding the proprietary margin obligation of the stockbroker in all segments).

- The parameters, the first list of QSBs was issued by stock exchanges on March 03, 2023.

- Accordingly, the revised framework with regard to the parameters for designating a stockbroker as QSB and procedure for identifying a stockbroker as QSB is introduced.

To read the circular in detail, please click here.

5. SEBI vide circular dated March 11, 2024 issued circular repeal of circular(s) outlining procedure to deal with cases where securities are issued prior to April 01, 2014, involving offer / allotment of securities to more than 49 but up to 200 investors in a financial year

- SEBI through this circular Clause 2 of SEBI Circular 'Procedure for implementation of Section 12A of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 –Directions to stock exchanges and registered intermediaries' dated April 26, 2023 states that "The procedure laid down in the Ministry of Finance Order dated January 30, 2023 (Annexed in Clause 1 of the circular) shall be strictly followed and meticulous compliance with the Order issued by the Government shall be ensured."

  Further, Clause 4 of the aforementioned Circular states that, "Details of accounts resembling any of the individuals/entities in the designated lists shall be reported to the Central Nodal Officer-The Director, FIU-Indiaas required under Order dated January 30, 2023.

- Futher in this regard, on March 08, 2024, United Nation Security Council Committee established pursuant to Resolutions 1718 (2006) concerning the Democratic People's Republic of Korea

(DPRK), enacted the amendment in1 entry (placed at Annexure-1) on its list of individuals and entities.

- Stock exchanges, Depositories, AMFI, KRAs and Registered intermediaries are advised to note the above said information and take measures in line with the relevant laws and regulations of Government of India, to implement the Non-Proliferation Orders with respect to the updated lists of the UNSC Resolution 1718 Sanctions committee.

To read the circular in detail, please click here.

RESERVE BANK OF INDIA (RBI)

1. **RBI vide notification dated March 13, 2024 notified Cut-off time for uploading of GST, ICEGATE and TIN 2.0 luggage files.**

- RBI through this notification notified cut off time for uploading of GST, ICEGATE and TIN 2.0 luggage files for this Please refer to para 10 on Reporting of transactions by agency banks to RBI' of 'Master Circular on Conduct of Government Business by Agency Banks - Payment of Agency Commission' dated April 1, 2023.

- Reporting of transactions by agency banks to RBI: After the operationalisation of NEFT 24X7 and RTGS 24X7, agency banks authorised to collect Goods and Service Tax (GST), Custom and Central Excise Duties (ICEGATE) and Direct Taxes under TIN 2.0 channel shall upload their luggage files in RBI's QPX/e-Kuber on all days except the Global holidays, which are January 26, August 15, October 2, all non-working Saturdays, all Sundays and any other day declared holiday by RBI for Government Transactions due to exigencies.

- Further these luggage files are uploaded in RBI's QPX/e-Kuber on or before 1800 hours prescribed by O/o Principal Chief Controller of Accounts, Central Board of Indirect Taxes & Customs and O/o Principal Chief Controller of Accounts, Central Board of Direct Taxes.

- No extension in cut-off time will be allowed to agency banks by RBI beyond 1800 hours for uploading of these luggage files in QPX/e-Kuber".

To read the notification in detail, please click here.

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

1. **IFSCA vide circular date March 11, 2024 issued Clarifications in relation to Fund Management Entities and Schemes set up in IFSCs by Sovereign Wealth Funds**

   - IFSCA by drawing reference to International Financial Services Centers Authority (Fund Management) Regulations, 2022 notified in the official Gazette on April 19, 2022 and the Circular dated March 01, 2023, issued thereunder to remove certain difficulties faced by Sovereign Wealth Funds in setting up Fund Management Entities (FME) and Schemes in IFSC.

   - Considering the above, the following as below is clarified with respect to Sovereign Wealth Funds desirous of setting up FMEs and schemes in IFSC, wherein the Sovereign Wealth Fund is the ultimate contributor and beneficiary:

     - The requirement of appointment of an independent custodian shall not be applicable to open-ended Restricted Schemes and all other schemes with AUM above USD 70 Million.

     - The requirement of having the office space of the FME to be dedicated, secured and accessible only by authorised person(s) of the FME is relaxed to the extent that Page 2 of 2 the FME and trustee of Scheme(s) set up in the form of trust, may occupy the same office space if their services are not offered to any third-party.

   - The said circular shall be applicable to All Fund Management Entities in International Financial Services Centers.

   - The circular shall come into force with immediate effect.

To read the circular in detail, please click here.

2. **IFSCA vide circular dated March 14, 2024 issued registration on FIU-IND FINNET 2.0 portal for compliance with International Financial Services Centers Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022.**

   - IFSCA by drawing reference to Chapter – X (Process of Identification and reporting of suspicious transactions) and other provisions of the International Financial Services Centers Authority (Anti Money Laundering, Counter – Terrorist Financing and Know Your Customer) Guidelines, 2022, Prevention of Money- laundering Act, 2002 and the Prevention of Money laundering (Maintenance of Records) Rules, 2005.

   - In order to comply with the relevant provisions of the Guidelines and also with the provision of the PMLA and PML Rules, all regulated entities are required to immediately complete their registration on FIU-IND FINNET 2.0 portal.

   - The non-registration with FIU-IND by any regulated entity shall be construed as contravention of the provisions of the respective IFSCA regulations or circulars or guidelines or directions or instructions issued thereunder.

- Further, The Regulated Entities which have been granted more than one license, registration, recognition, authorisation by the IFSCA for different line of business ('LoBs'), shall have to mandatorily register all LoBs in FINNET 2.0 portal.

- The license/ registration/recognition/ authorization number (issued by IFSCA) of the primary revenue-generating business of the RE may be used as the RE Registration Number at the time of registering on the FINNET 2.0 portal.

- The Regulated Entities which have completed registration on FINNET 2.0 portal and have been granted more than one license / registration / recognition / authorisation by the IFSCA for different LoBs, shall also update the same on FINNET 2.0 portal.

- The circular is applicable to all regulated entities in GIFT – IFSC.

To read the circular in detail, please click here.

3. **IFSCA vide circular dated March 14, 2024 issued Ease of doing business: Settlements of Clients Funds lying with Broker Dealer.**

- Presently, Broker Dealers in IFSC are required to transfer the unutilized funds back into client's account in the specified time depending on the mandate of the client ('Running Account Settlement'). However, the gap between two such settlements must not be more than 30/90 days.

- IFSCA on receipt of various representations from various market participants – both investors and market institutions - regarding doing away with the requirement of such monthly /quarterly settlement due to cost of remittance of funds.

- With an objective to promote ease of doing business in IFSC and taking into account the representations from investors and discussions with the Stock Exchanges, the following has been decided:

  - Unless otherwise specified by IFSCA, settlement of funds shall be done as per the Agreement/Consent Letter between the Broker Dealer and its client. The Stock Exchanges in IFSC may specify the format of such Agreement/ Consent Letter for the Broker Dealers.

  - Such an Agreement/Consent Letter needs to be executed between the Broker Dealer and the Client at the time of onboarding itself.

  - In case of existing clients, the Broker Dealers in IFSC may adopt a procedure to operationalize the same.

  - The Stock Exchanges in IFSC shall put in place a mechanism for monitoring clients' funds lying with the Broker Dealers.

To read the circular in detail, please click here.

SEBI ORDERS

ADJUDICATION ORDER IN THE MATTER OF MERCHANT BANKING ACTIVITIES OF SWASTIKA INVESTMENT LIMITED

Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted inspection of Swastika Investment Limited (hereinafter referred to as "**Noticee**") registered with SEBI as a Merchant Banker (hereinafter referred to as "**MB**") having registration number INM000012102.

During the inspection, the Noticee was alleged to violate the following provisions:

- Regulations 3(1) and 4(1) of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007; and
- SEBI Notifications dated March 11, 2013 and August 02, 2013 issued under Regulation 3 of the SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007.

Wherein, it is required for such categories of associated persons to obtain requisite certificate for engagement or employment with such classes of intermediaries and from such date as may be specified in the notification issued by SEBI.

As per the notification, the associated persons functioning as compliance officers of intermediaries registered with SEBI shall obtain certificate from the National Institute of Securities Markets (hereinafter referred as "NISM") by passing such Examination as specified therein.

Accordingly, during the inspection period, the Noticee did not ensure that at least two of its associated persons who were designated as Key Management Personnel (hereinafter referred to as 'KMPs') had obtained the 'NISM – Series -IX: Merchant Banking Certification' as mandated under Regulation 3(1) of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 read with Notification dated August 02, 2013. Further, the compliance officer of the Noticee did not obtain the 'NISM – Series -III A: Securities Intermediaries Compliance (Non-Fund) Certification' as mandated under Regulation 3(1) of SEBI (Certification of Associated Persons in the Securities Markets) Regulations, 2007 read with Notification dated March 11, 2013.

SEBI initiated the Adjudication proceedings and the Adjudicating Officer ("AO") was appointed to inquire into and adjudge for the aforesaid alleged violations by the Noticee. Accordingly, a show cause notice was issued to the Noticee to show cause as to why an inquiry should not be held and penalty be not imposed under section 15HB of the SEBI Act for the aforesaid alleged violations.

After considering all the facts and the circumstances of the case, and the material available on record, the AO imposed penalty of INR 3,00,000/- on the Noticee for violation of various provisions of said regulations.

To read the order in detail, please click here.

ADJUDICATION ORDER IN RESPECT OF WEALTHMAX SOLUTION INVESTMENT ADVISOR

Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted inspection of Wealthmax Solution Investment Adviser (hereinafter referred to as "**Noticee**"), a registered Investment Adviser under the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred as "IA Regulations"), having SEBI Registration No. INA000010751.

During the inspection, the Noticee was alleged for following violations:

- Not informing SEBI about the material changes in the information furnished earlier;
- Not obtaining necessary certificates;
- Non receipt of application for surrendering the IA registration as intimated earlier to SEBI;
- Non-execution of agreement with clients;
- Non-Maintenance of records;
- Non co-operation and submission of insufficient documents to the inspection team.

In view of the above, SEBI initiated the Adjudication proceedings and the Adjudicating Officer ("AO") was appointed to inquire into and adjudge for the aforesaid alleged violations by the Noticee. Accordingly, a show cause notice was issued to the Noticee to show cause as to why an inquiry should not be held and penalty be not imposed under section 15HB of the SEBI Act for the aforesaid alleged violations.

After considering all the facts and the circumstances of the case, the AO is of the view that the material does not quantify any disproportionate gains or unfair advantage made by Noticee and the losses, if any, suffered by the investors. However, the AO is of the view that it is of utmost importance that every IA takes all necessary steps to comply with all the provisions, Rules and Regulations as laid down by the Regulator. The very purpose of the said provisions is to deter wrong-doing and to promote ethical conduct in the securities market. Hence, the AO imposed penalty of INR 7,00,000/- on the Noticee for violation of various provisions of said regulations.

To read the order in detail, please click here.

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Call us 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 affiliate entity of Nishith Desai Associates ("NDA"), a preeminent India centric law firm. We are a premier and boutique firm specialized in meeting with the global standard corporate governance aspirations of our clients operating in India.

Our team comprises of professionals with a prolific corporate, legal and secretarial compliance background. We aim to provide pragmatic and business-oriented solutions in governance and compliance matters, through a unique holistic approach that blends our expertise and decades of experience in compliance and regulatory areas.

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