ACQUISORY

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BULLETIN – SEPTEMBER 2024

RBI & SEBI

RBI

Foreign Exchange (Compounding Proceedings) Rules, 2024 notified.

- These Rules supersede the Foreign Exchange (Compounding Proceedings) Rules, 2000.New amendments will simplify and update the provisions towards 'ease of investment' and 'ease of doing business'.
- The emphasis has been on enabling provisions to expedite and streamline the processing of compounding applications, introduction of digital payment options for application fees and compounding amounts, and a focus on simplification and rationalization of the provisions to eliminate ambiguity and clarify the process

SEBI

Reporting by Foreign Venture Capital Investors (FVCIs)

- In accordance with Regulation 13(1) of SEBI (FVCI) Regulations, 2000, FVCIs are required to submit quarterly reports to SEBI in the format specified with respect to their venture capital activity as Foreign Venture Capital Investor.
- Vide this circular SEBI has revised the format for the quarterly report on venture capital activity to be submitted by FVCIs and same is enclosed as Annexure-1. FVCIs shall submit the aforesaid quarterly report irrespective of the fact that any investment is made or not during the quarter.
- Further, in accordance with Regulation 14 (2) of FVCI Regulations, 2000, Custodian shall be responsible for timely submission of the report. From quarter ending March 31, 2025 onwards, FVCIs shall submit quarterly report in the revised format on the SEBI intermediary portal (SI Portal) within 15 calendar days from the end of each quarter.

SEBI (Issue and Listing of Non-Convertible Securities) (Second Amendment) Regulations, 2024

SEBI has amended the provisions of SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 to streamline the public issue process for debt securities and Non-Convertible Redeemable Preference share to provide:

- Reduction in the period for seeking public comments on the draft offer Documents from 7working days to 5 days.
- Flexibility to issuers by providing discretion to issuers with regard to advertisement of public issue through electronic modes subject to containing a QR Code and Link to complete advertisement in newspapers.
- Reduction in the minimum subscription period to 2 working days from 3 working days.

Modification in framework for valuation of investment portfolio of AIFs

- Valuation of securities, other than unlisted securities and listed securities which are non-traded and thinly traded, for which valuation norms have been prescribed under SEBI (Mutual Funds) Regulations, 1996 ('MF Regulations'), shall be carried out as per the norms prescribed under MF Regulations.
- Further, valuation of thinly-traded and non-traded securities will be harmonized across Sebi-regulated entities by March 31, 2025.
- Changes in valuation methods to comply with these rules will not be considered "material changes," but must be disclosed to investors.
- With regards to independent valuers, the framework for independent valuers of AIF portfolios now requires that the registered valuer shall have the membership of ICAI, ICSI or ICMAI or a CFA Charter.
- Further, AIFs will now have seven months, as compared to six earlier, to report valuations based on audited data from investee companies.

Master Circular on Surveillance of Securities Market

- The Master Circular covers trading rules, shareholding in dematerialized form, and monitoring of unauthorized news circulation by SEBI - Registered intermediaries and addresses key topics such as trading regulations in case of mergers, demergers and restructuring under the Companies Act and Insolvency and Bankruptcy Code.
- This Master Circular ensures that SEBI's regulatory framework is up to date and reflects evolving market conditions, safeguarding investors' interests and promoting a transparent securities market.
- SEBI also focuses on combating the circulation of unauthenticated news by market intermediaries. Failure to adhere to these guidelines could result in penalties for both employees and compliance officers, reinforcing SEBI's stance on maintaining market integrity.
- Regulation 6 of SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations) - The disclosures to be maintained in physical/electronic mode as per the prescribed format mentioned in Annexure I to the Master Circular.
- Regulation 8&9 of SEBI (Prohibition of Insider Trading) Regulations, 2015 - Code of practices and procedures for fair disclosures of Unpublished Price Sensitive Information (UPSI), formulated and published on its official website
- Furthermore, the circular reinforces the rules under SEBI's Prohibition of Insider Trading Regulations (PIT), 2015. It mandates companies to disclose Unpublished Price Sensitive Information (UPSI) and report violations related to insider trading as per Annexure 2 of the Master Circular.
- The automation of continual disclosures for designated individuals is also emphasized.
- Intermediaries must implement internal controls and closely monitor employee activities on social media, instant messaging services, and other communication platforms.
- Any unverified information must be reported to compliance officers before dissemination.

Usage of UPI by Individual investors for making an application in public issue of securities through intermediaries

In order to streamline and align the process of applying in the public issue of debt securities, nonconvertible redeemable preference shares, municipal debt securities and securitised debt instruments with that of public issue of equity shares and convertibles, SEBI has decided that all individual investors applying in public issues of such securities through intermediaries (viz. syndicate members, registered stock brokers, registrar to an issue and transfer agent and depository participants), where the application amount is upto Rs. 5 Lakh, shall only use UPI for the purpose of blocking of funds and provide his/ her bank account linked UPI ID in the bid-cum-application form submitted with intermediaries. These provisions shall apply starting from November 01, 2024.

SEBI (Delisting of Equity Shares) (Amendment) Regulations, 2024

- SEBI has notified the SEBI (Delisting of Equity Shares) (Amendment) Regulations, 2024, which shall come into force on the date of their publication in the Official Gazette.
- Provided that the provisions of these regulations shall be applicable to such delisting offers whose initial public announcement is made on or after the date of coming into force of these regulations.
- Further provided that an acquirer may make the delisting offer in terms of the provisions of the SEBI (Delisting of Equity Shares) Regulations, 2021 as they existed before the coming into force of these regulations till the sixtieth day from the date of publication of these regulations in the official gazette.

SEBI & MCA

SEBI Establishes Foreign Portfolio Investor (FPI) Outreach Cell

SEBI has launched a dedicated Foreign Portfolio Investor Outreach Cell as part of the Alternative Investment Fund and Foreign Portfolio Investors Department (AFD). This cell will focus on direct engagement with Foreign Portfolio Investors (FPIs) and supporting them in accessing the Indian securities market seamlessly. Key responsibilities of the FPI Outreach Cell will include:

- Providing guidance to prospective FPIs during the preapplication stage, including assistance with documentation and compliance processes.
- Offering support during the onboarding phase and resolving any operational challenges that may arise during the registration process or thereafter.

Operational Guidelines for Foreign Venture Capital Investors (FVCIs) and Designated Depository Participants (DDPs)

The objective to issue operational guidelines ("guidelines") for Foreign Venture Capital Investors ("FVCIs") and Designated Depository Participants ("DDPs") is to facilitate smooth transition to the amended FVCI regime and operationalisation of the amended provisions of SEBI (Foreign Venture Capital Investors) Regulations, 2024 (FVCI Regulations").

Any FVCI failing to engage a DDP by March 31,2025, shall not be permitted to make any further investment and shall liquidate:

1. Investments in listed securities, by March 31, 2026
2. Other investments, by March 31, 2027

Remittance of the proceeds of such sale shall be subject to compliance with applicable KYC, AML/CFT requirements. Post liquidation of investments within the said time period shall apply for surrender of its registration within 30 days.

SEBI (Real Estate Investment Trusts) (Third Amendment) Regulations, 2024 and SEBI (Infrastructure Investment Trusts) (Third Amendment) Regulations, 2024

- The amendments inter-alia include the reduction of the timeline for payment distribution to unit holders, requiring it within five working days from the record date, instead of fifteen.
- It also modifies voting provisions to calculate thresholds based on total votes cast rather than votes against, facilitating smoother unit holder meetings.
- A provision mandates video conferencing option for meetings and remote electronic voting. Additional regulations ensure that adequate backup systems and data integrity measures are in place for electronically maintained records.
- Overall, the amendments aim to enhance transparency, efficiency, and accessibility within the REIT/InvIT framework, aligning with evolving market practices and stakeholder needs.

SEBI Board Meeting held on September 30, 2024

- Option to investors to trade in the secondary market (cash segment) either using UPI block mechanism (ASBA-like for secondary markets), or 3-in-1 trading facility in addition to the current mode of trading: One of the two facilities to be mandatorily offered by Qualified Stock Brokers (QSBs) and other incidental matters.
- Enhancement of scope of Optional T+0 Settlement Cycle.
- Review of regulatory framework for Investment Advisers (IAs) and Research Analysts (RAs) to facilitate ease of doing business.
- To facilitate speedier disposal of matters related to certain types of violations-Amendments to the SEBI (Intermediaries) Regulations, 2008 for summary proceeding.
- Faster Rights Issue with flexibility of allotment to specific investors under SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.
- Facilitating ease of doing business under SEBI (LODR) Regulations 2015 and SEBI (ICDR) Regulations, 2018.
- Facilitating ease of doing business under SEBI (Merchant Bankers) Regulations 1992, SEBI (Bankers to an Issue) Regulations 1994 and SEBI (Buy-Back of Securities) Regulations 2018.
- Introduction of regulatory framework for a new investment product/asset class.
- Introduction of liberalised Mutual Funds Lite (MF Lite) framework for passively managed schemes of Mutual Funds.
- Pro-rata and pari-passu rights of investors of Alternative Investment Funds.
- Proposal to ensure that Offshore Derivative Instruments (ODIs, or erstwhile P-Notes) and segregated portfolios of FPIs are subject to disclosure requirements on par with FPIs.
- Investor-Friendly and Uniform Norms for Nomination Facilities in the Indian Securities Market.
- Amendments to the SEBI (Prohibition of Insider Trading) Regulations, 2015 to rationalize the scope of the expression 'connected person' and 'immediate relative'.
- Facilitating fund raising by corporates by expanding the scope of Sustainable Finance Framework in the Indian Securities Market by amendments to SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.
- To facilitate growth of the Bond market, Ease of Doing Business measures by streamlining compliance for listed Non-Convertible Securities and easing disclosures regarding appointment of Debenture Trustee in the offer document.
- Facilitating Ease of Doing Business, amendments to certain SEBI Regulations to substitute the requirement of attestation of certain documents by a Notary Public or Gazetted Officer with self attestation of such documents.
- To facilitate wider access to Informal Guidance from SEBI, review of the Securities and Exchange Board of India (Informal Guidance) Scheme, 2003.

MCA

Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Second Amendment Rules, 2024

- The changes intend to raise the minimum claim amount required to submit a claim to the IEPF Authority and to make clear the procedure for transferring securities to legal heirs. Legal heir certificates from tax authorities are now accepted under the laws, but they also call for further paperwork like indemnity bonds and no objection certifications from other legal heirs.

- A new requirement is brought stating that businesses to acquire insurance coverage for risks related to verification reports. The purpose of these modifications is to simplify the procedure for investors to retrieve misplaced or unclaimed assets and safeguard the interests of corporations and investors alike.

The Companies (Indian Accounting Standards) Second Amendment Rules, 2024

- One of the significant changes is the addition of new clauses pertaining to leaseback transactions under India Accounting Standards (Ind AS) 116. The changes ensure that gains or losses related to retained rights are not recognized unless specific requirements are met, providing seller lessees with greater clarity on how to use lease obligations and the right-of-use asset.
- Additionally, illustrative examples are provided to demonstrate the proper application of the modified rules, including how to manage sale and leaseback transactions including both variable and fixed payments. These rules aim to simplify accounting processes while ensuring compliance with the Ind AS laws.
- The changes will take effect for reporting periods beginning on or after April 1, 2024

Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2024

- In rule 25A, new sub rule (5) is being inserted.

Where the transferor foreign company incorporated outside India being a holding company and the transferee Indian Company being a wholly owned subsidiary company incorporated in India, enter into merger or amalgamation-

i. both the companies shall obtain the prior approval of the Reserve Bank of India;

ii. the transferee Indian company shall comply with the provisions of section 233;

iii. the application shall be made by the transferee Indian company to the Central Government under section 233 of the Act and provisions of rule 25 shall apply to such application; and

iv. the declaration referred to in sub-rule (4) shall be made at the stage of making application under section 233 of the Act.

This amendment ensures compliance with regulatory authorities and the Companies Act, 2013 by providing clarification and procedural requirements for cross-border mergers involving foreign holding Companies and their Indian subsidiaries.

Clarification on holding Annual General Meeting (AGM) and EGM through Video Conference (VC) or other Audio Visual Means (OAVM) and passing of Ordinary and Special Resolutions by the Companies Act, 2013 read with Rules made thereunder

- It has been decided to allow companies whose AGMs are due in the Year 2024 or 2025, to conduct their AGMs through VC or OAVM on or before 30th September 2025 in accordance with the requirements laid down in Para 3 and Para 4 of the General Circular No. 20/2020 dated 05.05.2020.
- However, it is hereby clarified that General Circular shall not be construed as conferring any extension of statutory time for holding of AGMs by the companies under the Companies Act, 2013 (the Act) and the companies which have not adhered to the relevant statutory timelines shall be liable to legal action under the appropriate provisions of the Act.

The Companies (Prospectus and Allotment of Securities) Amendment Rules, 2024

- Rule 9B relates to Issue of securities in dematerialised form by private companies.
- As per the amendment in the Companies (Prospectus and Allotment of Securities) Rules, 2014, a producer company covered under rule 9B (2) shall issue the securities only in dematerialised form and facilitate dematerialisation of all its securities, in accordance with provisions of the Depositories Act, 1996 and regulations made thereunder and shall comply with the provision within a period of five years of closure of such financial year.

The Companies (Accounts) Amendment Rules, 2024

- A new proviso is being inserted in the Companies (Accounts) Rules, 2014 in rule 12 (1B) which reads as-
  - Provided also that for the financial year 2023-2024, Form CSR-2 shall be filed separately on or before 31st December, 2024 after filing Form No. AOC-4 or Form No. AOC-4-NBFC (Ind AS), as specified in these rules or Form No. AOC-4 XBRL as specified in the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015 as the case may be.

The Companies (Indian Accounting Standards) Third Amendment Rules, 2024

- The Amendments are made in Rule 5 of the Companies (Indian Accounting Standards) Rules, 2015 stating that an insurer or insurance company may provide its financial statement as per Ind AS 104 for the purposes of consolidated financial statements by its parent or investor or venturer till the Insurance Regulatory and Development Authority notifies the Ind AS 117 and for this purpose, Ind AS 104 shall, as specified in the Schedule to these rules, continue to apply.

TAX

CBDT and CBIC issues order for enhancing monetary limit for filing appeals related to Direct Taxes, Excise and Service Tax in various Judicial fora

- The Union Budget 2024-25 provided for an enhanced monetary limit for filing appeals related to Direct Taxes, Excise and Service Tax in the Tax Tribunals, High Courts and Supreme Court and the limits were increased to ₹60 lakh, ₹2 crore and ₹5 crore respectively.
- In pursuant to the Budget 2024-25 announcement, the CBDT and CBIC had issued necessary orders to enhance the monetary limit for filing appeals in their respective domains. As a result, it is expected that the cases pending before various appellate fora will come down and reduce tax litigation.

CBDT extends date for filing TAX Audit Report till October 7, 2024

IFSCA

Maintenance of Net Worth by Capital Market Intermediaries

- Regulation 6 of IFSCA (Capital Market Intermediaries) Regulation, 2021, provides Capital Market Intermediaries (CMIs) to maintain Net Worth at all times.
- In this regard, it is clarified that CMIs failing to maintain Net Worth at any time shall not undertake any existing or new business activity in IFSC till the time the net worth is restored.
- This issues without prejudice to IFSCA's power to take action for non-compliance with the aforesaid regulation.

IFSCA & Others

Launch of IFSCA's Single Window IT system

- Government of India launched IFSCA's Single Window IT System (SWIT System).
- This unified one stop digital platform has been conceptualized and developed by IFSCA to facilitate ease of doing business in the International Financial Services Centre (IFSC) by streamlining the application process and eliminating the need for businesses to navigate multiple Authorities independently for various necessary approvals.
- IFSCA's SWIT System enables applicants to submit applications, obtain approvals, and fulfil approval related regulatory requirements through digital means in a simple, seamless and secure manner. With the launch of SWIT System, applicants can now apply for license/ registration from IFSCA, under the relevant IFSCA Regulations and Frameworks, through the SWIT Platform.

Incentive provided by IFSCA for filing of ESG Funds by Registered FMEs at GIFT IFSC

- IFSCA is incentivising Fund Management Entities (FMEs) to establish Environmental, Social, and Governance (ESG) funds at the GIFT IFSC, in a significant step to promote sustainable finance.
- To encourage green private capital to be channelised via the fund route, IFSCA has waived the fund filing fees for the first 10 ESG funds filed by Registered FMEs at GIFT IFSC.
- These incentives show IFSCA's commitment to not only attracting foreign and domestic fund managers to GIFT IFSC but also promoting ESG principles in investment decisions.

Single Window IT System inter-alia for registration and approval from IFSCA, SEZ Authorities, GSTN, RBI, SEBI and IRDAI

- IFSCA directed that, from October 01, 2024, all the applicants, except those mentioned in the circular, shall submit/file their applications exclusively through SWITS for seeking license, registration or authorisation, as the case may be, from IFSCA; approvals from SEZ Authorities and registration from GSTN; and No objection Certificate (NoC)/requisite approval from appropriate regulators.

OTHERS

Master Circular on Protection of Policyholders' interests 2024

The Insurance Regulatory and Development Authority of India (IRDAI) as part of steps towards reinforcing empowerment of policyholders has issued Master Circular on Protection of Policyholder's interest under the IRDAI (Protection of Policyholders' Interests, Operations, and Allied Matters of Insurers) Regulations, 2024.