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FINANCIAL REGULATORY BULLETIN

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FOREWORD

Welcome to this issue of the '*Financial Regulatory Bulletin*'.

The past few months have been quite eventful in the financial services space. Key developments include changes to the applicable eligibility and KYC norms for foreign portfolio investors, committee reports on market conduct regulations and the settlement mechanism under securities law framework, introduction of the new and revamped capital raising regulations, de-recognition of sub-brokers category, liberalization of the external commercial borrowings framework, introduction of draft directions on market abuse in the financial instruments market, and framework for co-origination of loans, amongst others. This issue provides a quick regulatory round-up of the key updates rolled out by financial services regulators namely, Reserve Bank of India ("**RBI**"), Securities and Exchange Board of India ("**SEBI**") and Insurance Regulatory and Development Authority of India ("**IRDAI**") from July 1, 2018 to September 30, 2018.

Through this issue, we have also set out our thoughts on the persistent regulatory concerns surrounding issuance of Offshore Derivative Instruments.

We hope you enjoy reading this newsletter. Please feel free to send your comments, feedback and suggestions to cam.mumbai@cyrilshroff.com.

Regards,
Cyril Shroff
Managing Partner
cyril.shroff@cyrilshroff.com

100 YEARS OF VALUES

ODIs: WHERE ARE WE AND WHERE DO WE GO FROM HERE

Foreign Institutional Investors ("**FIIs**") and sub-accounts, which were reincarnated as Foreign Portfolio Investors ("**FPIs**") four years ago, under the SEBI (Foreign Portfolio Investors) Regulations, 2014 ("**FPI Regulations**") have had one common (and particularly knotty) thread running across both lifetimes, i.e., the persistent regulatory concerns surrounding issuance of Offshore Derivative Instruments ("**ODIs**"), or participatory-notes.

Wherein Lies The Rub?

The chief concern with ODIs was succinctly summarized in the Report of the Committee headed by Chairman, Central Board of Direct Taxes on "*Measures to tackle Black Money in India and Abroad*" submitted in 2012, which stated that ODIs were traded overseas outside the direct purview of SEBI surveillance raising many apprehensions about the beneficial ownership and the nature of funds and "hot money" being invested in these instruments. The Report also highlighted concerns on the ODI route being used as a conduit for black money or terrorist funding.

(i) This was further discussed in the Recommendations of the Special Investigation Team ("**SIT**") on Black Money as contained in the Third SIT Report, which included:

(ii) Formulation of regulations on identification of final beneficial owner;

(iii) Ensuring that the Know Your Client ("**KYC**") information ends with details of individuals, including, where applicable, those who exercise effective control.

Re-examining transferability of ODIs, since layering of transactions can make identification of true beneficial owners impossible.

Restrictions and Regulatory Stipulations on ODIs

While SEBI admittedly has limited oversight over subscribers and beneficial owners, numerous measures have been introduced by SEBI to regulate the manner in which FPIs can issue ODIs. These include restrictions on the category of FPIs that can issue ODIs, as well as restrictions and stipulations governing the nature of the counterparty and its beneficial owner.

In brief, ODIs can be issued only to appropriately regulated entities subsequent to a KYC check. Further, there are restrictions on counterparties being India related entities, which as of now, includes Non-Resident Indians ("**NRIs**"), Overseas Citizens of India ("**OCIs**") and Indian Residents.

In November 24, 2014, SEBI introduced a circular which sought to bring parity between the FPI and ODI regimes, and made certain eligibility requirements and investment aggregation requirements under the FPI Regulations applicable to ODIs as well.

In its continuing bid to tighten the ODI market and address the concerns raised by the SIT, SEBI has taken several steps. For instance, the circular dated June 10, 2016 imported client identification test under Rule 9(3) of the Prevention of Money–Laundering (Maintenance of Records) Rules, 2005 ("**PMLR**") for issuance of ODIs. Further, through their circular dated July 7, 2017, SEBI prohibited issuance of ODIs against derivatives for speculation. Accordingly, FPIs can now issue ODIs against derivative positions that are taken by the ODI issuing FPI for hedging the equity shares held by it, on a one to one basis.

The Sound and the Fury

The most debated of SEBI's attempts to further regulate the FPI space was the circular dated April 10, 2018 ("**April Circular**"), which, *inter alia*, combined the concepts of beneficial ownership (which referred to Rule 9(3) of the PMLR) and restrictions on NRIs, OCIs and Indian Residents. Prior to the introduction of the April Circular, the beneficial ownership requirements for FPIs referred to only a 25% ownership threshold, which was revised to the test under the PMLR (i.e. materiality threshold of 25% for companies and 15% for partnership, trusts and other juridical persons; and in absence of any material stakeholder, identification of senior managing officials).

While this did not raise many concerns purely from a KYC point of view, the April Circular had also extended certain eligibility requirements to beneficial owners as well. The most worrisome amongst these was the requirement of ensuring that beneficial owners could not be NRI, OCI or resident Indians, given that SEBI had permitted such persons to acts as investment managers and senior officials, with limited exposure.

It was also unclear if this regime would extend to ODI subscribers as well, since the circular itself was silent on this issue and the KYC norms for ODI subscribers were already aligned to the PMLR.

A Stitch in Time

To SEBI's credit, it was receptive of the concerns raised by market participants and requested the working group, under the chairmanship of Mr. H.R. Khan ("**Working Group**"), to assess the impact of the April Circular. The interim recommendations were released on September 8, 2018, and suggested that SEBI may clarify that the requirements apply to ODIs as well. Following public comments, SEBI was quick to approve a revised set of norms in a board meeting held on September 18, 2018. Taking comfort from a Department of Revenue clarification that the PMLR requirements should be used only for KYC purposes, SEBI issued two circulars on September 21, 2018, each dealing with KYC norms ("**KYC Circular**") and eligibility requirements ("**Eligibility Circular**") separately.

The Eligibility Circular is slightly more relevant in the context of avoiding round tripping, since it deals with NRIs, OCIs and resident Indians accessing Indian markets through FPIs (single NRI, OCI or RI, and aggregate investments by such persons, are required to be below 25% and 50% of the corpus, respectively). It may be noted that while SEBI had prescribed the 50% shareholding threshold for such entities earlier as well, the same was generally applied in the context of companies and not all funds.

In addition, the Eligibility Circular adopts definitions of the Foreign Exchange Management (Transfer or issue of security by a Person Resident outside India) Regulations, 2017 for defining NRIs and OCIs. Given that OCI refers to a person holding the OCI card in the relevant regulations, this makes the test more objective.

However, while the KYC Circular made a reference to ODIs (albeit only for the purposes of identification of beneficial owners), the Eligibility Circular was silent on the same. The reasons for this are not clear, given that the Interim Recommendations included a specific suggestion on the same (which was picked up by market participants as well). The minutes of the SEBI board meeting also did not indicate whether any specific view had been taken on this.

Conclusion and Way Forward: Are We There Yet?

The path of least resistance, at first blush, is for FPI issuers and ODI subscribers to try and implement the requirements of the Eligibility Circular. However, this is easier said than done. Tracking ownership in ODI subscribers, and aggregating them, is not within the control of FPIs, who will ultimately be responsible in case of a transgression. In most cases, FPIs will have to depend on representations by the ODI subscribers and it is particularly difficult to apply any uniform approach, given the diverse nature of clients. Especially in case of open ended and exchange traded funds, it is not clear how compliance can be monitored effectively.

That said, it will be difficult to attribute any specific intention to SEBI's silence on the applicability of Eligibility Circular to ODIs, which may range from a desire to not set out a rule for ODIs just yet, to a decisive approach on not providing the leeway under the Eligibility Circular to ODIs. SEBI's approach on ODIs, while often pragmatic, is geared towards the eventual aim of encouraging foreign investors to register directly and make the ODI route redundant. With the key issues raised by the April Circular out of the way, it will be interesting to see the next batch of recommendations from the Working Group and their impact on ODIs.

(Shruti Rajan, Partner and Garima Joshi, Partner)

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REGULATORY UPDATES

RESERVE BANK OF INDIA ("RBI")

- ***Review of foreign exchange management regulations for derivative contracts:***

In the Statement on Developmental and Regulatory Policies proposed by the RBI and released on August 1, 2018, the RBI has communicated its keenness in relation to:

(i) a comprehensive review of the foreign exchange management regulations pertaining to derivative contracts that can be traded in India. This is backed with an intention to: (a) reduce administrative requirements for undertaking derivative transactions, (b) allow dynamic hedging, and (c) allow Indian multinationals to hedge currency risks of their global subsidiaries from India; and

(ii) other measures such as review of the timings related to currency futures, Over-the-Counter ("**OTC"**) foreign exchange market segment and strengthening the internal ombudsman process adopted in banks.

- ***Draft Directions on Prohibition of Market Abuse***

In its Statement on Developmental and Regulatory Policies dated June 6, 2018, RBI announced its intention to issue regulations, in line with the best global practices, to prevent abuse by participants in markets for financial instruments regulated by the RBI. Draft directions on this subject were released for public feedback. These will be applicable to all participants in markets for financial instruments but shall not apply to transactions or other activities being carried on in furtherance of public policy objectives or those executed on stock exchanges in accordance with SEBI laws and regulations. In this regard, 'financial instruments' have been defined to mean instruments referred to under Section 45W of the RBI Act, 1934 which means securities, money market instruments, foreign exchange, derivatives, or other instruments of like nature as the Bank may specify from time to time.

Briefly, the RBI has sought to prevent market manipulation, benchmark manipulation, utilisation or sharing of unpublished price sensitive information ("**UPSI**"), amongst other aspects in relation to monitoring, compliance and reporting of such practices.

- ***Co-origination of loans by Banks and NBFCs***

Pursuant to RBI's discussions in its Statement on Developmental and Regulatory Policies dated August 1, 2018, it has released the co-origination model for providing competitive credit to priority sector. As a result, all scheduled commercial banks (excluding regional rural banks and small finance banks) are permitted to engage with systemically important, non-deposit taking NBFCs to co-originate loans for the creation of priority sector assets involving a joint arrangement by both lenders. In this regard, the RBI has stipulated certain essential features, including offering a single blended interest rate, sharing of risks and rewards between both parties, common escrow type account for pooling loan contributions for disbursal and repayments and other procedural requirements such as grievance redressal, reporting, provisioning, monitoring and adherence to KYC norms.

- ***Liberalisation of the External Commercial Borrowings ("ECB") Policy***

As part of the suggestions made by the Indian government to reduce the current account deficit, RBI liberalised certain aspects of the ECB framework in relation to Rupee denominated bonds. Consequently, in the manufacturing sector, it has been decided to allow eligible borrowers to raise ECB up to USD 50 million or its equivalent with a minimum average maturity period of 1 year (as against the erstwhile requirement of 3 years). Market participants believe that this decision was taken to mitigate the impact of the depreciating rupee value as most manufacturing companies are engaged in purchasing dollars due to lack of financing options. Additionally, Indian banks have also been permitted to participate as arrangers/ underwriters/ market makers/ traders in Rupee denominated bonds issued overseas, subject to applicable prudential norms.

- ***Voluntary Transition of Urban Co-operative Banks ("UCBs") to Small Finance Banks ("SFBs")***

  Pursuant to the Statement on Developmental and Regulatory Policies dated June 6, 2018 and in view of the changes in the banking space as well as to facilitate growth, the RBI has stipulated a scheme for the voluntary transition of eligible UCBs (having a good track record) into SFBs by way of transfer of assets and liabilities. This will allow such banks to provide a full suite of products/ services, sustain competition, raise capital, etc. Accordingly, this scheme has been introduced for voluntary transition of a UCB into a SFB. Towards this, the RBI has prescribed certain norms in relation to the application process, capital requirement, compliance with SFB guidelines, base financial benchmarks and identification of promoters of the UCB.

- ***Issuance of Directions on Repurchase Transactions***

  RBI has issued new directions pertaining to repurchase transactions undertaken on stock exchanges, electronic trading platforms as well as over-the-counter transactions by all regulated entities, listed corporates, certain specific kinds of unlisted companies and All India Financial Institutions. These transactions involve eligible Government securities, listed corporate bonds and debentures, commercial papers, and certificate of deposits. The new directions primarily set out the nature of repurchases permitted, frequency of reporting the transactions, the obligations of the tri-party agent, as well as conditions to be followed for pricing, collaterals, haircuts and margins, amongst others.

- ***Issuance of Directions on Short Sale Transactions in Government Securities***

  RBI has issued new directions with respect to regulation of short sale of dated central government securities wherein RBI has sought to liberalise the eligible short sale participant base and increase the entity-wise and security category -wise (liquid/ other securities) limits for short selling in government securities by entities such as scheduled commercial banks, primary dealers and other regulated entities (having regulatory approval). These entities are permitted to undertake short sales, which comprise 2% of the total outstanding stock of each security, or, INR 500 crore, whichever is higher in case of liquid securities; and 1% of the total outstanding stock of each security, or, INR 250 crore, whichever is higher in case of other securities.

- ***Exclusion of FCRA registered entities from FEMA 22***

  The RBI has recently issued a notification amending certain provisions of the Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016. The amendments include a clarification that an entity engaged, partly or wholly, in activities covered under the Foreign Contribution Regulation Act, 2010 ("**FCRA**"), such as having a definite cultural, economic, educational, religious or social programme, shall be required to obtain a certificate of registration under FCRA and not under these FEMA regulations. Further, a declaration has been added to the effect that the applicant shall not undertake any activity covered under FCRA and any misrepresentation or false information in this regard shall render the approval granted as void and withdrawn.

- ***Introduction of Internal Ombudsman Scheme, 2018 for Scheduled Commercial Banks***

  The RBI has issued revised directions in the form of Internal Ombudsman Scheme, 2018 ("**Scheme**") which cover, *inter-alia,* appointment and tenure, roles and responsibilities, procedural guidelines and oversight mechanism for the Internal Ombudsman. As per the new guidelines, all scheduled commercial banks with more than 10 banking outlets in India are required to appoint an internal ombudsman who will examine customer complaints based on the grounds of deficiency in service on part of the bank as highlighted in the Scheme. The implementation of this Scheme is required to be monitored by the bank's internal audit mechanism other than the prescribed regulatory oversight by the RBI.

➢ ***Diversification of activities of Standalone Primary Dealers***

RBI has now permitted Standalone Primary Dealers ("**SPDs**") to offer foreign exchange products to their FPI clients as part of their non-core activities, with a license from RBI. RBI has also mandated prudential regulations for such SPDs, including maintenance of minimum Capital to Risk-Weighted Assets Ratio of 15%. In addition, SPDs desirous of offering forex products to the FPIs are required to approach the RBI for an Authorized Dealer license.

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SECURITIES AND EXCHANGE BOARD OF INDIA ("SEBI")

➢ ***Issuance of the SEBI (Issue Of Capital And Disclosure Requirements) Regulations, 2018***

On September 11, 2018, SEBI notified the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("**New Regulations**"). The New Regulations will come into force on November 10, 2018 and will replace the existing SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 ("**Old Regulations**"). The New Regulations have streamlined some of the disclosure requirements and have also attempted to reduce disclosure in the offer documents. Some of the important changes include reduction of the period of disclosure of restated consolidated financial statements from five to three financial years and any stub period in IPOs, reduction of the IPO timeline for announcement of floor price or price band from five to two working days, limiting disclosure of litigation involving group companies for IPOs to only such litigation that has a material impact on the issuer, clarified the conditions for undertaking an offer for sale in IPOs permitting conversion of fully paid-up compulsorily convertible securities offered in the IPO prior to filing of the offer document (red herring prospectus) instead of the draft offer document (draft red herring prospectus) and blanket restriction on eligibility for undertaking fast track rights issues in case of any audit qualification(s) in the financial statements. The New Regulations also require a confirmation that the issuer, its promoters, promoter group and selling shareholders are in compliance with the recently notified Companies (Significant Beneficial Ownership) Rules, 2018. Please see our Special Edition of the Insight dated October 5, 2018 for the brief summary on the New Regulations.

➢ ***SEBI Board Meeting – Key decisions on FPIs, Settlement Mechanism, Fair Market Conduct***

At its Board meeting, SEBI has taken a host of decisions pertaining to regulatory framework surrounding FPIs, mutual funds, settlement mechanism, implementation of recommendation of Committee on Fair Market Conduct, etc. Please see our Special Edition of the Bulletin dated August 17, 2018 for the brief summary on the recommendations of the Committee on Fair Market Conduct. These decisions are still a few steps away from being incorporated into the regulatory framework, and may undergo further changes and iterations. The key decisions of SEBI are set out below in brief:

- Further to the interim recommendations of the Working Group (under the chairmanship of Mr. H.R. Khan) on the requirements of the April Circular, revised KYC and eligibility norms have been prescribed for FPIs;
- Mutual fund commissions and expenses are now required to be paid from the scheme without any upfront commission;
- The time period for listing after an initial public offering has been reduced from six days to three days;
- SEBI has accepted the recommendations of the Justice A. R. Dave Committee which reviewed the existing settlement mechanism and has, accordingly, approved the framing of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018;
- Proposing amendments to various provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003 to include

introduction of definition of 'dealing in securities', expanding the scope of the regulations to include employees and agents of intermediaries, strengthening of the deeming provisions for fraud to include activities such as misleading information on digital media, front running by non-intermediaries, mis-selling of securities and services related to securities, mis-utilization of client account and diversion of client funds, manipulating bench mark price of securities, etc.;

- Proposing to amend the SEBI (Prohibition of Insider Trading) Regulations, 2015, *inter alia*, including, bringing clarity on sharing of UPSI for due diligence or legitimate purposes, creation of database of persons with whom UPSI is shared, introduction of additional defences when trading while being in possession of UPSI, additional disclosure requirements for aiding SEBI in investigations and introduction of framework for institutional responsibility to ensure that the institution takes responsibility to formulate a code of conduct and put in place an effective system of internal controls to ensure compliance with the various requirements specified in the regulation to prevent insider trading;

- SEBI has approved a framework for enhanced market borrowings by large companies (outstanding borrowing of INR 100 crore or more), with effect from April 1, 2019 which requires companies to raise 25% of their incremental borrowings through bond market; and

- SEBI has allowed interoperability of clearing corporations, helping market participants consolidate their clearing and settlement functions at a single clearing house and reducing the effective trading cost for investors.

- SEBI has sought the Government's guidance in respect of proposed power of SEBI to intercept calls and electronic communication.

➢ ***Revised KYC norms for FPIs***

Further to the board meeting, SEBI issued revised circulars on eligibility conditions and KYC norms for FPIs. It has been clarified that beneficial ownership criteria under Indian anti-money laundering laws will apply only for KYC purposes and not for determining eligibility of FPIs, or for clubbing of investment limit for FPIs. We have covered the key features of the circulars in our Special Edition of the Bulletin dated September 24, 2018.

➢ ***Master Circular on Commodity Derivatives Market***

SEBI has introduced its first Master Circular for all stock exchanges and clearing corporations with commodity derivatives trading. It compiles all the circulars issued by Commodity Derivatives Market Regulation Department concerning domestic commodity derivatives segment. It is a comprehensive compilation that, *inter alia*, addresses governance and administration of exchanges and clearing corporations, trading, warehousing norms, risk management, delivery and settlement, investor protection and trading software.

➢ ***Circulars issued for Commodity Derivative Exchanges to apply to Commodity Derivative Segments of Stock Exchanges/ Recognized Clearing Corporations:***

SEBI has made amendments to the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012. Pursuant to these amendments, with effect from October 1, 2018, there will be no separate category of 'Commodity Derivatives Exchanges'. SEBI has clarified that, from October 1, 2018, all the norms issued for Commodity Derivatives Exchanges till date shall be applicable to Commodity Derivatives Segments of Recognised Stock Exchanges/ Recognised Clearing Corporations to the extent applicable.

➢ ***Issuance of SEBI (Buy-Back Of Securities) Regulations, 2018***

SEBI has replaced the previous regime by introduction of the SEBI (Buy-Back of

Securities) Regulations, 2018. It provides greater clarity on regulatory requirements concerning buyback such as public announcement, amends certain filing requirements and updates the older regulations to bring them at par with the Companies Act, 2013.

- ***Circular on Enhanced monitoring of Qualified Registrars to an Issue and Share Transfer Agents***

  Qualified Registrars to an Issue and Share Transfer Agents ("**QRTAs**"), servicing more than two crore folios, have been advised to formulate and implement a comprehensive policy framework approved by the board of directors. This should cover a risk management policy, a business continuity plan, a wind down plan, data access and data protection policy, scalable infrastructure. SEBI also requires QRTAs to maintain records and ensure integrity of the automatic data processing systems. They are also required to submit a quarterly compliance report to SEBI in the specified format.

- ***Report by the SEBI High Level Committee to Review the Enforcement and Settlement Mechanism***

  The high-level committee submitted its report on the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 on August 13, 2018. The Report, *inter alia*, has suggested (i) introduction of a mechanism whereby an individual can apply to SEBI for settlement with confidentiality and for a lesser settlement amount in exchange for his co-operation in SEBI's investigation; (ii) removing the restricted list of offences where settlement applications cannot be filed and introducing a principle based approach under which SEBI has the discretion to accept any application for settlement; (iii) allowing SEBI to issue a settlement notice to entities, if it so decides, before the issue of a show cause notice, as a result of which the entity can settle the matter before the issuance of a show cause notice; and (iv) introducing a hard cap of 120 days from the time ordinarily given to an entity to file a settlement application, after which no application can be accepted by SEBI under any circumstance. SEBI, in its Board Meeting dated September 18, 2018, has approved the broad framework of the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2018 proposed by the high level committee, with the above mentioned provisions.

- ***SEBI streamlines the process of public issue of debt securities, non-convertible redeemable preference shares and securitized debt instruments***

  SEBI has taken steps to simplify and reduce costs associated with public issue of debt securities, non-convertible redeemable preference shares and securitized debt instruments. This includes, *inter alia,* (i) requirement of compulsory use of Application Supported by Blocked Amount for payments by investors; (ii) clarification of the role of the Self-Certificate Syndicate Banks and stock exchanges; and (iii) reduction in the time taken for listing after closure from 12 days to 6 days.

- ***De-recognition of sub-brokers as a market intermediary***

  In view of the similarities between sub-brokers and authorized representatives, *vide* a circular dated August 3, 2018, SEBI has decided to discontinue the registration of sub-brokers. SEBI has amended the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992 to remove all provisions pertaining to registration and regulation of the activities of sub-brokers. All registered sub-brokers have been given time till March 31, 2019 to migrate and act as authorized representatives and/ or Trading Member. Sub-brokers who do not migrate will be deemed to have surrendered their registrations as sub-brokers. SEBI has also specified the method by which this migration can be done.

- ***Circular on Adjustment of Corporate Actions for Stock Options***

  SEBI has issued new conditions for adjustment of strike price in cases of declaration of dividend. Adjustment shall be carried out (i) if the dividend is at and above 5% of the market value of the underlying stock; and (ii) in all cases of dividends where the listed entity has sought exemptions from the timeline prescribed under the provisions

of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

- ***Issuance of Circular on Overseas Investment by Alternative Investment Funds/Venture Capital Funds***

SEBI, in consultation with the RBI, has decided to enhance the limit on overseas investment by Alternative Investment Funds ("**AIFs**") and Venture Capital Funds ("**VCFs**") from USD 500 million to USD 750 million. Further, AIFs and VCFs now have to mandatorily disclose utilization or non-utilization of the overseas limit.

- ***SEBI circular on Electronic Book Mechanism for issuance of securities on private placement basis***

In order to further rationalize and ease the process of issuance of securities in the Electronic Book Provider platform ("**EBP Platform**"), SEBI has decided to provide additional facilities such as (i) permitting closed bidding on the EBP Platform along with existing open bidding; (ii) providing an option to issue to choose from uniform yield or multiple yield allotment; (iii) permitting multiple bids by an investor in an issue; and (iv) in addition to clearing corporations, SEBI has allowed pay-in of funds towards an issue on the EBP Platform.

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INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA ("IRDAI")

- ***Insurance Brokers required to disclose information about past offences***

The IRDAI (Insurance Brokers) Regulations, 2018 require insurance intermediaries to furnish details of offences which have taken place in the last three years. Consequent to IRDA's observations that instances of criminal/ judicial proceedings before government agencies against brokers or key managerial personnel ("**KMP**") were not brought to IRDA's notice, IRDA advised principal officers to furnish details in cases where the applicant broker or any of the partners/ directors or KMP have been: (i) subjected to an investigation or disciplinary proceedings or have been issued warning or reprimand by any regulatory authority; and/ or (ii) subjected to investigation at the instance of government department or agency; and/ or (iii) found guilty or in violation of rules/ regulations/ legislative requirements by customs/ excise/ income tax/ foreign exchange/ other revenue authorities.

- ***Clarifications on activities by 'Point of Sale Persons'***

Pursuant to stakeholder representations, the IRDA has recently clarified that, *inter alia,* in view of the IRDA (Protection of Policyholder's Interest) Regulations, 2017, the need to have the prefix "POS" to life, general and health insurance policies has become redundant, and consequently, has been discontinued as the insurance policy itself carries the details of the person selling such a policy. In addition, POS personnel have been permitted to distribute micro insurance products of life, general and health insurance in light of advantages such as higher insurance penetration, lower prices, and increased choice to customers.

- ***Committee Report on Insurance Marketing Firm Regulations***

Given that the concept of insurance marketing firms ("**IMFs**") has been in operation for three years, IRDA had constituted a committee to review the regulations as well as issue recommendations on areas where the extant regulations are silent in view of certain operational feedback from market participants. The key recommendations include: (i) expansion of 'area of operation' of IMF to state level from district level; (ii) relaxation of net worth criteria in the initial years of the IMF, where the entity may have a net worth of not less than INR 5 lakhs (from a previous requirement of INR 10 lakhs) at the time of registration and by the time of first renewal of the registration, the net worth should not be less than INR 10 lakhs; (iii) expansion of the list of products sold through an IMF to include group insurance products and combi-products; (iv) relaxation of the eligibility criteria of principal officer of an IMF where it is to be

brought at par with the qualification criteria of a principal officer of a corporate agent; (v) simplification and automation of the ISP resignation process; and (vi) intimation of change in ownership/ shareholding of IMF up to 26% and thereafter, only with the prior approval of the IRDA, compared to the approval only approach adopted previously.

MINISTRY OF FINANCE

- ***Single Application for FPIs***

With an eye on improving ease of doing business in India, the Ministry of Finance has introduced the concept of a single application for FPIs looking to access the domestic capital markets. This single application, promised by the Minister of Finance in his 2017-18 Budget Speech, simplifies the process by merging four separate applications concerning registration of FPI with SEBI, allotment of Permanent Account Number for FPIs, opening of bank account and demat account for FPIs. As per the recent SEBI Board Meeting press release, SEBI has indicated that necessary amendments to the FPI Regulations will be issued.

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ABOUT CYRIL AMARCHAND MANGALDAS

Cyril Amarchand Mangaldas or the Firm was founded in May 2015 to continue the legacy of the 100-year old Amarchand & Mangaldas & Suresh A. Shroff & Co., whose pre-eminence, experience and reputation of almost a century has been unparalleled in the Indian legal fraternity. Set up on the foundation of our glorious legal tradition and the outstanding legal practice built by Mr. Suresh A. Shroff, the Firm under the leadership of Mr. Cyril Suresh Shroff, along with its partners and associates, has come together to restructure and design a new blue print for the future.

With a long and illustrious history that began in 1917, the Firm is the largest full-service law firm in India, with over 625 lawyers, including 100 partners, and offices in India's key business centres at Mumbai, New Delhi, Bengaluru, Hyderabad, Ahmedabad and Chennai. The Firm advises a large, varied client base that includes domestic and foreign commercial enterprises, financial institutions, private equity funds, venture capital funds, start-ups and governmental and regulatory bodies. The Firm prides itself in having a strong value system that keeps its clients as the central focus. Building on the strength of this value system, the Firm has fostered a collaborative work culture and adopts a pragmatic and solution-oriented approach to problem solving. Today, the Firm is recognised globally as a trusted adviser which consistently delivers quality, capability and commitment to its clients.

FINANCIAL REGULATORY PRACTICE

The group is dedicated to the firm's clientele in the financial services sector. Our knowledge of the Indian regulatory regime for financial institutions, as well as our credibility with key regulators puts us in a unique position to advise such clients on all aspects of their business, from entry strategies to expansion, ongoing compliance, transactional advisory (both greenfield and brownfield) and regulatory representations.

We are the only Indian Tier-I firm to have a full scale dedicated financial regulatory services group which provides end-to-end legal solutions to our financial institutions clients and we draw our expertise both from this dedicated group as well as our firm's well established banking and capital markets practice. Our international network of top tier law firms in different jurisdictions also allows us to collaborate with the best legal advisors in any market to provide financial institutions with a global footprint.

DISCLAIMER

Should you have any queries in relation to any of the issues set out herein or on other areas of law, please feel free to contact us at the following coordinates:

Cyril Shroff
Managing Partner
Email : cyril.shroff@cyrilshroff.com

Yash J. Ashar
Partner (Head – Capital Markets)
Email : yash.ashar@cyrilshroff.com

Shruti Rajan
Partner (Financial Regulatory Practice)
Email : shruti.rajan@cyrilshroff.com

Garima Joshi
Partner (Financial Regulatory Practice)
Email : garima.joshi@cyrilshroff.com

Mumbai
5th floor, Peninsula Chambers, Peninsula Corporate Park, Lower Parel, Mumbai - 400 013 (India)

Other offices
New Delhi; Bengaluru; Hyderabad; Chennai; Ahmedabad

W: www.cyrilshroff.com

Blog: www.cyrilamarchandblogs.com