

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: PRASHANT SARAN, WHOLE TIME MEMBER

ORDER

Under sections 11(1), 11(2)(j), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with section 12A of the Securities Contracts (Regulation) Act, 1956 in the matter of non-compliance with the minimum public shareholding requirements

In respect of Aeonian Investments Company Limited

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') vide an *interim ex-parte* order dated June 04, 2013 (hereinafter referred to as the '*interim* order') had issued certain directions in respect of 105 listed public companies who had failed to comply with the Minimum Public Shareholding ('MPS') requirements as stipulated under rules 19(2)(b) and 19A of the Securities Contracts (Regulation) Rules, 1957 within the due date i.e., June 03, 2013. The directions issued vide the *interim* order are as follows:
 - a. The *voting rights* and *corporate benefits* like dividend, rights, bonus shares, split, etc. with respect to the excess of proportionate promoter/ promoter group shareholding in the non-compliant companies were directed to be frozen, till such time the companies complied with the MPS requirement.
 - b. The promoters/ promoter group and directors of those non-compliant companies were prohibited from buying, selling or otherwise dealing in securities of their respective companies, either directly or indirectly, in any manner whatsoever, except for the purpose of complying with MPS requirement till such time those companies complied with the MPS requirement.
 - c. The shareholders forming part of the promoter/ promoter group in the non-compliant companies were restrained from holding any new position as a director in any listed company, till such time those companies comply with the MPS requirement.
 - d. The directors of non-compliant companies were restrained from holding any new position as a director in any listed company, till such time those companies complied with the MPS requirement.

The *interim* order was passed without prejudice to the right of SEBI to take any other action, against the non-compliant companies, their promoters and/or directors or issuing such directions in accordance with law. The *interim* order was to be treated as a show cause notice by those companies for action contemplated in paragraph 18 thereof.

2. Aeonian Investments Company Limited (hereinafter referred to as 'the Company') is one such company which was found to be non-compliant with the MPS norms. The promoters'

shareholding in the Company as on the date of the *interim* order was 86.96%. The shares of the Company are listed on the Bombay Stock Exchange Limited ('BSE').

3. The Company filed its reply dated June 10, 2013 to the *interim* order and submitted that the Company has already initiated and taken effective steps towards voluntary winding up of the Company under the applicable provisions of the Companies Act, 1956 and it would not be required to take any steps for compliance with MPS requirement. Before proceeding further in the matter, an opportunity of personal hearing was afforded to the Company on August 14, 2013. On the said date, the Company was represented by its directors Mr. Dhiren Mehta and Mr. Bipin Jhaveri along with Mr. Rohan Rajadhyaksha, Counsel and Ms. Shiksha Dhamija, Advocate and made submissions. Pursuant to the hearing, the company vide its letter dated August 23, 2013 submitted that the company has passed resolutions for voluntary winding up and intimated the exchanges about fixing April 30, 2013 as the record date and for suspension of trading in its scrip.
4. In the meantime, the Company filed an appeal (*Appeal No. 132 of 2013*) challenging the *interim* order before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as the 'SAT'). Hon'ble SAT vide its order dated August 29, 2013, directed SEBI to pass final order within a period of 4 (four) weeks.
5. I have considered the reply dated June 10, 2013, written submissions dated August 23, 2013, the oral submissions made during the personal hearing and the documents submitted by the Company. It is the case of the Company that on the introduction of the amended clause 40A of the listing agreement vide circular dated December 16, 2010 (which provided for a few methods which a company can adopt for increasing its public shareholding), it considered different options. However, these were found not feasible due to the difficulty in their implementation, given the market conditions. Thereafter, on further amendment to the listing agreement vide SEBI Circular dated February 08, 2012, according to the Company, it consulted the Merchant Bankers around December, 2012. However, as the shares of the company were thinly traded and as it had no projects for investing the funds, the methods for achieving the MPS requirement were not found feasible. The methods of bonus issue and delisting of shares were also not found feasible by the Company.
6. As per the Company, it then decided to undertake voluntary winding up for resolving the situation and passed a resolution for winding up by the Board of Directors as on March 26, 2013. Thereafter, an Extraordinary General Meeting of the Company was held on April 29, 2013, wherein the resolution was passed to give effect to the members' voluntary winding

up. According to the Company, intimation about these resolutions were duly given to BSE on the respective days. Further, intimation about fixing April 30, 2013 as record date and the request for suspension of trading was also given to BSE, Central Depository Services Limited and National Securities Depository Limited by the Company. Thereafter, the scrip of the Company was suspended from trading with effect from April 29, 2013.

On May 03, 2013, the Company appointed the Liquidator. Further, the Chartered Accountants of the Company had written to the Income Tax department, for seeking approval for the distribution of the assets to shareholders vide letter dated May 08, 2013. On receipt of the approval on May 21, 2013, the first instalment of ₹75 per share was disbursed by the Company on May 24, 2013. It has been said that the traded price of the scrip of the Company during the year April, 2012 to March, 2013 had fluctuated between ₹105 to ₹150. According to the Company, every shareholder will be paid approximately ₹240 per share in view of the voluntary winding up.

Pursuant to the same, vide letter dated June 05, 2013 the Chartered Accountants of the Company had once again approached Income Tax department, seeking approval for distribution of assets to the shareholders. The Company has also said that all procedural requirements under the Companies Act for filing of documents with the Registrar of Companies and the publication of notice have been effected along with distribution of assets to contributories and to the creditors.

7. I note from the submissions of the Company that the voluntary winding up was approved and the resolution was passed by its shareholders. The same was duly intimated to the Stock Exchanges. I have considered the submission of the Company that the process of winding up is at advanced stage and the requisite procedure for the same is being followed in accordance with law and in compliance with the approval of relevant regulatory authorities. Further, I also note that the scrip of the Company was suspended from trading with effect from April 29, 2013.
8. I note the submission of the Company that vide its letter dated May 23, 2013, it had intimated SEBI about the process of voluntary winding up, however, while passing the *interim* order the same has not been taken into consideration. I have considered the submission of the Company and note that its name has been included in the *interim* order on the basis of the list of Companies who were non-complaint with the MPS norms as on June 03, 2013, as forwarded by the stock exchanges. The scrip of the Company was not

delisted as on June 03, 2013. I note that all listed companies are required to maintain MPS of 25% as a requirement for continuous listing.

9. Having considered the steps taken by the Company towards voluntary winding up, I find it reasonable and appropriate to modify the directions issued vide the *interim* order to the extent that the same does not affect or prejudice the efforts of the Company/ its promoter from continuing with the voluntary winding up process. I note that the submission of Company that it is taking all possible steps to ensure that the winding up process is completed as expeditiously possible and the same should be completed by around March 31, 2014. I also note that part payments have been made to the public shareholders. Considering the above, I am of the view that the directions imposed on the Company, its directors, promoters and the promoter group vide the *interim order* need not continue. I am also of the opinion that this case does not warrant initiation of further action as contemplated in paragraph 18 of the *interim order*.
10. In view of the foregoing, I, in exercise of the powers conferred upon me under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11(1), 11(2)(j), 11(4) and 11B thereof and section 12A of the Securities Contracts (Regulation) Act, 1956, hereby revoke the directions issued vide the *interim order* dated June 04, 2013 against the company, Aeonian Investments Company Limited, its directors, promoters and promoter group, with immediate effect. The aforesaid direction would enable the Company to proceed with the voluntary winding up process and complete the same at the earliest.
11. The aforesaid directions are issued without prejudice to the right of SEBI to initiate action as contemplated in paragraph 18 of the *interim order* in case the winding up process of the Company is not successful.
12. This Order shall come into force with immediate effect.
13. Copy of this Order shall be served on the stock exchanges and depositories for their information and action that may deem fit and necessary in this case.

PLACE: Mumbai
DATE: September 24, 2013

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA