
BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

Under Sections 11, 11(4) and 11B of the Securities and Exchange Board of India Act, 1992

in the matter of GDR Issue of Rasoya Proteins Limited

In respect of –

Sr. No.	Noticee	PAN/Other Identifying Number
1.	Rasoya Proteins Limited	AABCM1757C
2.	Anil Lonkar	AAHPL2701Q
3.	Sameer Damle	AFKPD2850C
4.	Ajay Singh	AMOPS6983Q
5.	Prashant Duchakke	AEGPD0977B
6.	Arun Panchariya	AEVPP6125N
7.	Vintage FZE	<i>Registered outside India</i>
8.	Mukesh Chauradiya	AAVPC0966A
9.	Pan Asia Advisors Ltd.	<i>Registered outside India</i>

10.	India Focus Cardinal Fund	AABCI9518D
11.	Highblue Sky Emerging Market Fund	AADCK9460G
12.	Leman Diversified Fund	AABCL8363M
13.	Aspire Emerging Fund	AALCA5544M
14.	Cardinal Capital Partners	(FII Registration No.) INMUFD263211
15.	European American Investment Bank AG	(FII Registration No.) INASFD211608
16.	Golden Cliff (previously known as Vaibhav Investments Limited)	(FII Registration No.) INMUFD256111
17.	KBC Aldini Capital Ltd.	(FII Registration No.) INUEFD237810

1. Background –

1.1. The present matter emanates from an investigation by SEBI into the issuances of Global Depository Receipts (“**GDRs**”) in overseas markets by Indian companies, allegedly with the intention of defrauding Indian investors. During the course of such investigation, it came to SEBI’s knowledge that there were several other GDR issues wherein loan was taken by a foreign entity and the security of the loan was provided by the GDR issuing company by signing a Pledge Agreement. One such company was Rasoya Proteins Limited (“**Rasoya**”/the “**Company**”).

1.2. The focus of the investigation was to ascertain whether the shares underlying the GDRs were issued with proper consideration and whether appropriate disclosures, if any, were made by Rasoya with respect to GDRs issued by it on March 01, 2011. The period under investigation was the period around which the issuance of GDRs by the Company took place, i.e. August 13, 2010 to March 31, 2011 (“**Investigation Period**”).

1.3. During the pendency of the above-mentioned investigation, an Ex-parte Interim Order dated September 24, 2014 was passed by SEBI *inter alia* debarring and prohibiting ten entities namely, Rasoya Proteins Ltd.; Anil Lonkar; Prashant Duchakke; Sameer Damle; Ajay Singh; Arun Panchariya; India Focus Cardinal Fund; Pan Asia Advisors Ltd; Vintage FZE and Mukesh Chauradiya from accessing the securities market (the “**Interim Order**”). Subsequently, the directions in the Interim Order with respect to the above-named ten entities were confirmed by way of an Order dated March 23, 2015. As a consequence of the above, the directions issued vide the Interim Order continue to remain in force.

2. Summary of Show-cause Notice - (i) The Scheme (ii) The Modus Operandi and Fund Flow

2.1. Pursuant to the findings of the Investigation Report, a common Show-cause Notice dated December 04, 2017 was issued to the Noticees (the “**SCN**”). By way of the SCN, all the Noticees were called upon to show cause as to why suitable directions should not be issued against them under Sections 11, 11B and 11(4) of

the SEBI Act. The entities against whom directions had been passed in the Interim Order were also made Noticees in the present SCN.

2.2. In this regard, the SCN relying on the Investigation Report has alleged that—

A. The scheme of issuance of GDRs was fraudulent as Noticee No. 1, the Company, had entered into a Pledge Agreement with the bank, European American Investment Bank AG (“**EURAM Bank**”) for a loan that had been availed by Vintage FZE (“**Vintage**”), also known as Alta Vista International FZE, towards the subscription of GDRs issued by the Company. The Pledge Agreement was not disclosed to the stock exchanges, which made the investors believe that the said GDR issue was genuinely subscribed by foreign investors. Noticee No. 7, Vintage was a party to this fraudulent scheme. Noticee No. 5, Prashant Duchakke, who was an Executive Director in Rasoya, signed the Pledge Agreement with EURAM Bank, whereby the account holding the GDR proceeds was given as security for the loan availed by Vintage for subscribing to the GDRs of Rasoya. Noticee No. 2, Anil Lonkar; Noticee No.3, Sameer Damle; Noticee No. 4, Ajay Singh were Directors on the Board of Rasoya, and in the board meeting dated October 04, 2010 passed a board resolution authorising EURAM Bank to use the GDR proceeds account as security for the loan availed by Vintage. Noticee No. 8, Mukesh Chauradiya signed the Loan Agreement on behalf of Vintage for the subscription of GDRs of the Company. Noticee No. 6, Arun Panchariya was Director and beneficial owner of Vintage.

B. Noticee No. 10, India Focus Cardinal Fund was a sub-account of FII-EURAM Bank and FII-Cardinal Capital Partners. Arun Panchariya was the beneficial owner of Noticee No.10. Noticee No. 11, Highblue Sky Emerging Market Fund (previously known as KBC Aldini (Mauritius) Capital Limited) was registered as a sub-account of FIIs, Golden Cliff (also known as Vaibhav Investment Ltd.) and KBC Aldini Capital Limited. Arun Panchariya connected entities were beneficial owners and directors of Highblue Sky Emerging Market Fund. Noticee No. 12, Leman Diversified Fund was a sub-account of Arcstone Capital Limited. Noticee No. 13, Aspire Emerging Fund was registered as a sub-account of FII-Golden Cliff. FII sub-accounts India Focus Cardinal Fund, Highblue Sky Emerging Market Fund, Leman Diversified Fund and Aspire Emerging Fund received GDRs, converted them and sold the equity shares of Rasoya in the Indian stock exchanges. Noticee Nos. 10,11, 12 and 13 acted as conduits for Arun Panchariya and his connected entities in converting the GDRs, which had been acquired by Vintage free of cost through the fraudulent scheme, and selling the converted equity shares of Rasoya in the Indian capital market..

C. Noticee No. 14, Cardinal Capital Partners; Noticee No.15, EURAM Bank; Noticee No. 16, Golden Cliff; and Noticee No. 17, KBC Aldini Capital Ltd. did not make any investments in India except investments made by their sub-accounts, namely India Focus Cardinal Fund, Highblue Sky Emerging Market Fund, Aspire Emerging Fund and Leman Diversified Fund. So, the FIIs

namely, EURAM Bank, Cardinal Capital Partners, Golden Cliff and KBC Aldini Capital Ltd. acted as conduits for Arun Panchariya and facilitated India Focus Cardinal Fund, Highbue Sky Emerging Market Fund and Aspire Emerging Fund to sell the underlying shares of the GDRs in the Indian capital market.

2.2 (I) *The Scheme*

A. The Company came out with the issuance of 10,44,571 GDRs amounting to USD 31.995 million on March 01, 2011. A summary of the said GDR issuance is provided hereunder:

Table - 1

GDR issue date	No. of GDRs issued (mn.)	Capital raised (USmn.)	Local custodian	No. of equity shares underlying GDRs	Global Depository Bank	Lead Manager	Bank where GDR proceeds were deposited
01-3-2011	1.044	31.95	HSBC	2,08,91,420	The Bank of New York Mellon	Pan Asia Advisors Ltd	EURAM Bank, Austria

B. A bank account was opened by Rasoya with EURAM Bank bearing number 580036 to deposit the GDR proceeds. Accordingly, a total of USD 31,995,209.73 was credited to this account. Vintage was the only one from

whom money was received in this account. Therefore, it was concluded by investigation that the GDR issue of Rasoya was subscribed by only one entity i.e., Vintage. The amount credited to the GDR proceeds account is tabulated hereunder:

Table - 2

Date of credit of funds	Credit amount (USD)
28/02/2011	31,995,209.73

C. It was observed during investigation that of the total loan of USD 31,995,209.73 by Vintage, it repaid USD 23.96 million. Subsequently, it defaulted on the said loan, and the funds in the GDR proceeds account of Rasoya were appropriated by EURAM Bank by invoking the Pledge Agreement for satisfaction of the amount owed by Vintage. Further, it was seen from the bank account statements that an amount to the tune of USD 23.96 Million (in various tranches) was transferred by Rasoya through RPL International Trade FZE (“**RITF**”) to Vintage connected entities, which was in turn utilised by Vintage for repayment of the loan taken by it from EURAM Bank. Considering that Rasoya had a) transferred funds through RITF to Vintage connected entities for repayment of the loan amount to the extent of USD 23.96 million; and b) allowed the balance GDR proceeds to be appropriated by EURAM Bank for satisfying the pending loan amount of Vintage, the GDRs issued by

Rasoya to Vintage, and in turn the underlying shares, were without any consideration, at the cost of shareholders / investors of Rasoya. This is the fraudulent scheme that had been conceived.

2.2 (II) *The Modus Operandi and Fund Flow*

- A. On October 04, 2010, the Board of Directors of Rasoya passed a resolution resolving that a bank account be opened with any branch of EURAM Bank for the purpose of receiving subscription money in respect of the GDR issue of the Company. Also, at the said board meeting, EURAM Bank was authorised to use the GDR proceeds as security against loan availed by Vintage.
- B. Vintage entered into a loan agreement dated February 14, 2011 with EURAM Bank for a loan facility of USD 31,995,209.73 so as to “*provide funding enabling Vintage FZE to take down GDR issue of 1,044,571 Luxembourg public offering and may only be transferred to EURAM account nr.580036, Rasoya Proteins Limited.*”
- C. On February 15, 2011, a Pledge Agreement was executed between Rasoya and EURAM Bank and the same was signed by Prashant Duchakke of Rasoya. As per the Pledge Agreement, Rasoya’s designated account with EURAM Bank bearing no. 580036 would be held in pledge by EURAM Bank to secure the obligations of Vintage under the Loan Agreement.
- D. The aforesaid Pledge Agreement was an integral part of the Loan Agreement entered between Vintage and EURAM Bank and vice versa, and both were

executed one day apart from each other. The Pledge Agreement had the reference to the Loan Agreement entered between Vintage and EURAM Bank by virtue of which EURAM Bank provided the loan facility to Vintage for the purpose of subscribing to the GDRs of Rasoya.

- E. As already stated, the GDR proceeds to the tune of USD 31.995 million were deposited in the Company's bank account bearing number 580036 maintained with EURAM Bank. Vintage repaid the loan amount to the extent of USD 23.96 million and thereafter defaulted on the loan repayment.
- F. As Vintage had defaulted, the outstanding loan amount of USD 8.04 million owed by Vintage to EURAM Bank was adjusted, in conformity with the Pledge Agreement dated February 15, 2011, from the GDR proceeds account of Rasoya.
- G. Further, an amount to the tune of USD 23.96 Million (in various tranches) was utilised by Vintage for repayment of the loan taken by it from EURAM Bank, consequent to transfer of funds by Rasoya to Vintage connected entities through its UAE registered subsidiary, RITF. The details of the transfer of funds from the account of Rasoya are provided hereunder:

Table - 3

Particulars	Amount (USD)
RPL International Trade FZE (wholly owned subsidiary in UAE of RPL) (RITF)	24,124,000
Amount adjusted towards repayment of loan taken (including Interest) by Vintage for subscribing to RPL's GDR	8,039,590
Other bank and miscellaneous charges	2,737
Total	32,166,327

H. It was seen that the amounts transferred by RPL to RITF were in turn transferred to select entities that were connected to Vintage. The said entities were AL Shamsi Holding FZC, Atiqe Al Aqadi LLC, Al Chemy International FZC, Ababil Star General Trading LLC, Lider FZE, K Sera Sera Productions FZE, Seazun Ltd, Citigate Trade FZE.

I. Further, the transactions from the account of RITF to the above mentioned entities showed that the date and amount of loan repaid by Vintage to Euram Bank was in sync with every transfer from Rasoya's Euram Account to RITF. The details of the same are as under:

Table - 4

Date	As per Ledger	Debit	Credit	Net Transactions in RITF a/c
27-Apr-11	Repayments by Vintage	1,000,000		NA
28-Apr-11	Rasoya Euram account – RITF Dubai		999,707	999,707
2-May-11	Atique Al Aqadi LLC	208,600		791,107
2-May-11	Al Chemy International FZC	650,000		141,107
4-May-11	AL Shamsi Holding FZC	134,525		6,582
6-May-11	Repayments by Vintage	1,000,000		NA
7-May-11	Rasoya Euram account – RITF Dubai		999,704	1,006,285
9-May-11	Seazun Ltd	428,755		577,530
9-May-11	AL Shamsi Holding FZC	477,870		99,660
11-May-11	Citigate Trade FZE	95,780		3,880
3-Aug-11	Repayments by Vintage	800,000		NA
4-Aug-11	Rasoya Euram account – RITF Dubai		799,716	803,596
6-Aug-11	Lider FZE	204,650	-	598,946
6-Aug-11	AL Shamsi Holding FZC	309,125	-	289,821
7-Aug-11	AL Shamsi Holding FZC	288,500	-	1,321
8-Aug-11	Repayments by Vintage	4,000,000		NA
9-Aug-11	Rasoya Euram account – RITF Dubai		3,999,715	4,001,036

Date	As per Ledger	Debit	Credit	Net Transactions in RITF a/c
10-Aug-11	AL Shamsi Holding FZC	981,990	-	3,019,046
10-Aug-11	Lider FZE	580,920	-	2,438,126
10-Aug-11	K Sera Sera Productions FZE	1,080,750	-	1,357,376
10-Aug-11	Atique Al Aqadi LLC	1,150,775	-	206,601
9-Aug-11	Repayments by Vintage	1,000,000		NA
10-Aug-11	Rasoya Euram account – RITF Dubai		999,715	1,206,316
11-Aug-11	AL Shamsi Holding FZC	401,990	-	804,326
11-Aug-11	Lider FZE	389,220	-	415,106
11-Aug-11	Atique Al Aqadi LLC	409,180	-	5,926
10-Aug-11	Repayments by Vintage	2,300,000		NA
11-Aug-11	Rasoya Euram account – RITF Dubai		2,299,715	2,305,641
13-Aug-11	Lider FZE	590,870	-	1,714,771
13-Aug-11	AL Shamsi Holding FZC	1,395,950	-	318,821
12-Aug-11	Repayments by Vintage	1,000,000		NA
13-Aug-11	Rasoya Euram account – RITF Dubai		999,717	1,318,538
14-Aug-11	AL Shamsi Holding FZC	1,029,790	-	288,748
15-Aug-11	AL Shamsi Holding FZC	282,890	-	5,858
23-Aug-11	RPL Euram account – RITF Dubai		124,712	130,569
24-Aug-11	AL Shamsi Holding FZC	126,925	-	3,644
29-Aug-11	Repayments by Vintage	1,000,000		NA
31-Aug-11	Repayments by Vintage	800,000		NA

Date	As per Ledger	Debit	Credit	Net Transactions in RITF a/c
3-Sep-11	Rasoya Euram account – RITF Dubai		799,712	803,356
3-Sep-11	RPL Euram account – RITF Dubai		1,019,710	1,823,066
4-Sep-11	AL Shamsi Holding FZC	931,790	-	891,276
5-Sep-11	AL Shamsi Holding FZC	888,880	-	2,396
22-Sep-11	Repayments by Vintage	700,000		NA
24-Sep-11	Rasoya Euram account – RITF Dubai		699,731	702,127
26-Sep-11	AL Shamsi Holding FZC	698,725	-	3,402
14-Nov-11	Repayments by Vintage	1,900,000		NA
16-Nov-11	Rasoya Euram account – RITF Dubai		1,899,727	1,903,129
17-Nov-11	AL Shamsi Holding FZC	789,785	-	1,113,344
17-Nov-11	Lider FZE	213,230	-	900,114
17-Nov-11	Atique Al Aqadi LLC	894,795	-	5,319
6-Feb-12	Repayments by Vintage	1,275,000		NA
7-Feb-12	Rasoya Euram account – RITF Dubai		1,293,737	1,299,056
7-Feb-12	AL Shamsi Holding FZC	50,000	-	1,249,056
8-Feb-12	Atique Al Aqadi LLC	475,850	-	773,206
8-Feb-12	Atique Al Aqadi LLC	597,155	-	176,051
9-Feb-12	AL Shamsi Holding FZC	170,875	-	5,176
8-Feb-12	Repayments by Vintage	4,700,000		NA

Date	As per Ledger	Debit	Credit	Net Transactions in RITF a/c
11-Feb-12	RPL Euram account – RITF Dubai		4,699,734	4,704,911
13-Feb-12	AL Shamsi Holding FZC	680,785	-	4,024,126
13-Feb-12	Atique Al Aqadi LLC	721,925	-	3,302,201
13-Feb-12	Atique Al Aqadi LLC	890,795	-	2,411,406
14-Feb-12	Ababil Star General Trading LLC	2,400,000	-	11,406
15-Feb-12	AL Shamsi Holding FZC	5,250	-	6,156
17-Feb-12	Repayments by Vintage	2,000,000		NA
18-Feb-12	RPL Euram account – RITF Dubai		1,999,740	2,005,896
21-Feb-12	Al Chemy International FZC	2,000,000	-	5,896
23-Feb-12	Repayments by Vintage	485,000		NA
25-Feb-12	RPL Euram account – RITF Dubai		484,735	490,631
27-Feb-12	AL Shamsi Holding FZC	485,195	-	5,436

J. Even though consideration had not effectively passed from Vintage to Rasoya, the GDRs issued were, however, allowed to be converted into equity shares, and these shares were sold in the Indian capital market. Cancellation of GDRs started from April 08, 2011 and continued till March 27, 2015.

K. Post cancellation of GDRs, FII-sub accounts namely 1) India Focus Cardinal Fund (Noticee No. 10); 2) Highblue Sky Emerging Market Fund (Noticee No.

11); 3) Leman Diversified Fund (Noticee No. 12); and 4) Aspire Emerging Fund (Noticee No.13) received equity shares of Rasoya.

L. A summary of the cancellation of the GDRs is provided hereunder:

Table – 5

Date of credit of shares	No. of GDRs converted	No. of GDRs outstanding	No. of shares created	Entity in whose a/c. shares were credited post cancellation of GDRs
Initial issue of GDR with a conversion ratio of 1 GDR = 20 Shares				
31-Mar-11		10,44,571	2,08,91,420	Original Issue of Shares/ GDRs
08-Apr-11	55,000	9,89,571	11,00,000	IFCF
28-Apr-11	19,100	9,70,471	3,82,000	IFCF
29-Apr-11	3,650	9,66,821	73,000	IFCF
11-May-11	30,000	9,36,821	6,00,000	IFCF
Share split from face value Rs. 10 to Rs. 5 per share (New conversion ratio 1 GDR = 40 Shares)				
12-Sep-11	22,000	9,14,821	8,80,000	IFCF
23-Sep-11	2,850	9,11,971	1,14,000	HBS
04-Oct-11	3,780	9,08,191	1,51,200	HBS
17-Oct-12	19,525	8,88,666	7,81,000	HBS
28-Dec-12	20,000	8,68,666	8,00,000	HBS
Share split from face value Rs. 5 to Rs. 1 per share (New conversion ratio 1 GDR = 200 Shares)				
02-Apr-13	20,000	8,48,666	40,00,000	HBS
15-Apr-13	17,37,332	25,85,998	34,74,66,400	2 Bonus for 1 share/ GDR held
13-May-13	10,000	25,75,998	20,00,000	HBS
17-May-13	10,000	25,65,998	20,00,000	HBS
06-Jun-13	20,000	25,45,998	40,00,000	HBS

Date of credit of shares	No. of GDRs converted	No. of GDRs outstanding	No. of shares created	Entity in whose a/c. shares were credited post cancellation of GDRs
20-Aug-13	10,000	25,35,998	20,00,000	Leman
16-Sep-13	10,000	25,25,998	20,00,000	HBS
17-Sep-13	27,500	24,98,498	55,00,000	Leman
17-Dec-13	1,00,000	23,98,498	2,00,00,000	HBS
19-Dec-13	1,14,925	22,83,573	2,29,85,060	Leman
30-Oct-14	1,77,946	21,05,627	3,55,89,160	HBS
30-Oct-14	71,601	20,34,026	1,43,20,280	Leman
07-Nov-14	2,406	20,31,620	4,81,200	Aspire Emerging Fund
02-Dec-14	1,00,000	19,31,620	2,00,00,000	Leman
11-Dec-14	1,00,000	18,31,620	2,00,00,000	Aspire Emerging Fund
06-Feb-15	2,36,192	15,95,427	4,72,38,460	HBS
16-Feb-15	2,00,000	13,95,427	4,00,00,000	Aspire Emerging Fund
03-Mar-15	1,74,698	12,20,730	3,49,39,520	HBS
11-Mar-15	6,16,988	6,03,742	12,33,97,580	HBS
13-Mar-15	5,28,742	75,000	10,57,48,340	Aspire Emerging Fund
27-Mar-15	75,000	0	1,50,00,000	HBS

M. The Noticees, namely, India Focus Cardinal Fund, Highblue Sky Emerging Market Fund, Leman Diversified Fund and Aspire Emerging Fund sold the equity shares received by them in the Indian capital market. Investigation found that the said sub-accounts were related to Arun Panchariya, and as such, the GDRs were converted into equity shares and these shares were sold in the Indian Capital Market.

N. Further, India Focus Cardinal Fund was registered as sub account of FII-EURAM Bank and FII- Cardinal Capital Partners. Also, as FIIs, both EURAM

Bank and Cardinal Capital Partners did not make any investment in India, except for the sale of shares in the Indian capital market, pursuant to the conversion of GDRs by India Focus Cardinal Fund. Similarly, Highblue Sky Emerging Market Fund was registered as a sub account of FIIs, Golden Cliff and KBC Aldini Capital Limited. Aspire Emerging Fund was also registered as a sub account of FII- Golden Cliff. It was seen that Golden Cliff and KBC Aldini Capital Limited did not make any investment in India, except for the sale of shares in the Indian capital market, pursuant to the conversion of GDRs by Highblue Sky Emerging Market Fund and Aspire Emerging Fund.

- O. These FIIs, namely, Cardinal Capital Partners (Noticee No. 14), EURAM Bank (Noticee No. 15), Golden Cliff (Noticee No. 16) and KBC Aldini Capital Limited (Noticee No. 17) facilitated the sale of the equity shares received by way of fraudulent issue of GDRs.

2.3. In view of the above acts of the Noticees, the SCN has alleged that Noticee Nos. 2 to 17 have violated the following provisions of the SEBI Act, 1992 and SEBI PFUTP Regulations, 2003 : Section 12A(a), 12A(b), 12A(c) of SEBI Act 1992 read with Regulations 3 (a), (b), (c), (d) & 4(1) of SEBI (PFUTP) Regulations, 2003. In addition to the above provisions, the Company (Noticee No. 1) has been alleged to have also violated Regulation 4(2) (f), (k) and (r) of SEBI (PFUTP) Regulations, 2003.

2.4. Consequent to the issuance of the SCN, a Supplementary Show-cause Notice dated January 17, 2019 was issued to Noticee Nos 7, 10, 11, 12 and 13 *inter alia* calling upon them to show cause as to why suitable directions, including disgorgement should not be passed against them. Also, a Show-cause Notice dated September 05, 2019 was issued to Noticee No. 1 calling upon it to show cause as to why suitable directions to bring the money back should not be issued against it.

3. Inspection, Personal Hearing, and Replies and Written Submissions from the Noticees

3.1. The SCN was served on all the Noticees. Pursuant to the SCN, some of the Noticees filed their replies. Some of the Noticees also sought inspection of documents. Based upon the request of the Noticees, opportunities of inspection of the records/ documents (which were relied upon by SEBI for the purpose of the SCN) were provided to the Noticees. Details with respect to the same are furnished hereunder:

Table-6

Noticee No.	Noticee	Date of Inspection of Documents	Inspection Conducted By
7	Mukesh Chauradiya	April 13, 2018	Mr. Devendra Dhanesha, Chartered Accountant
2	Anil Lonkar	May 25, 2018	Ms. Parinati Jain and Ms. Darshi Shailesh Shah, Advocates

3	Sameer Damle	February 20, 2018	Mr. Amit Shah and Ms. Parinati Jain, Advocates
4	Ajay Singh	January 19, 2018	Mr. Amit Shah and Ms. Parinati Jain, Advocates
5	Prashant Duchakke	January 19, 2018	Mr. Amit Shah and Ms. Parinati Jain, Advocates
12	Leman Diversified Fund	January 29, 2018	Mr. Paras Parekh and Ms. Stuti Shah, Advocates, J. Sagar Associates

3.2. The details of the personal hearings in the matter are tabulated below:

Table- 7

Noticee No.	Name of the Noticee	Date of Hearing	Represented by
1	Rasoya Proteins Limited	February 25, 2021	Mr. Asim Ansari, authorised representative of the Liquidator
2, 3, 4, 5	Anil Lonkar Sameer Damle Ajay Singh Prashant Duchakke	February 25, 2021	Mr Nitish Bangera and Mr. Amit Shah

6	Arun Panchariya	October 14 and 20, 2020	Mr. P.R. Ramesh, Advocate
12	Leman Diversified Fund	May 20, 2021	Mr. R.S. Loona, Advocate
13	Aspire Emerging Fund	May 20, 2021	Mr. Kushal Shah, Chartered Accountant
15	EURAM Bank, Austria	October 14, 2020	Mr. Shouryendu Ray, Advocate, Wadhwa Law Offices

3.3. Noticees Nos. 7, 9, 10 and 14 neither availed the opportunity of personal hearing nor filed any reply in response to the SCN. The details with respect to the service of the SCN and Hearing Notices to these Noticees are provided hereunder:

Table- 8

Noticee No.	Name of the Noticee	Details
7	Vintage FZE	<ul style="list-style-type: none"> SCN dated December 04, 2017 was sent by Speed Post to the said Noticee at the address: Aah-273, Al Ahmadi House, Jebel Ali Free Zone, Dubai. The same could not be delivered.

		<ul style="list-style-type: none"> ▪ Hearing Notice dated September 01, 2020 intimating about the personal hearing scheduled for October 14, 2020 was served via email to the address of Arun Panchariya (arun.panchariya@me.com), the beneficial owner. ▪ Hearing Notice for the personal hearing scheduled for February 25, 2021 was served via email to the address of Arun Panchariya (arun.panchariya@me.com), the beneficial owner.
9	Pan Asia Advisors Ltd.	<ul style="list-style-type: none"> ▪ SCN dated December 04, 2017 was sent by Speed Post to the said Noticee at the address: Minister House, 42 Mincing Lane, London, EC3R 7AE . The same could not be delivered. ▪ Hearing Notice dated September 01, 2020 intimating about the personal hearing scheduled for October 14, 2020 was served via email to the address of Arun Panchariya (arun.panchariya@me.com), the beneficial owner. ▪ Hearing Notice for the personal hearing scheduled for February 25, 2021 was served via email to the address of Arun Panchariya (arun.panchariya@me.com), the beneficial owner.

10	India Focus Cardinal Fund	<ul style="list-style-type: none"> ▪ SCN dated December 04, 2017 was sent by Speed Post to the said Noticee at the address: C/o Cardinal Capital Partners, Suite 501, St. James Court, St Dennis Street, Port Louis, MAURITIUS. The same could not be delivered. ▪ SCN dated December 04, 2017 was served via email to the address of the liquidator (m.reaz@intnet.mu). ▪ Hearing Notices for the personal hearing scheduled for October 14, 2020 and February 24, 2021 was served via email to the address of the liquidator (m.reaz@intnet.mu).
14	Cardinal Capital Partners	<ul style="list-style-type: none"> ▪ SCN dated December 04, 2017 was sent by Speed Post to the said Noticee at the address: Suite 501, St. James Court, St Dennis Street, Port Louis, MAURITIUS. The same could not be delivered. ▪ Hearing Notice dated September 01, 2020 intimating about the personal hearing scheduled for October 14, 2020 was served via email to the address of Arun Panchariya (arun.panchariya@me.com), the beneficial owner. ▪ Hearing Notice for the personal hearing scheduled for February 25, 2021 was served via email to the address of Arun Panchariya (arun.panchariya@me.com), the beneficial owner.

3.4. A summary of the replies as submitted by the Noticees is provided hereunder:

Noticee No. 1 (Rasoya Proteins Limited)

3.4.1. The Noticee, through the Liquidator, AAA Insolvency Professionals LLP, in its replies dated October 31, 2018 and November 01, 2018 has *inter alia* submitted the following:

- a. liquidation process had commenced in respect of Rasoya Proteins Limited under the provisions of Insolvency and Bankruptcy Code, 2016 (“IBC”) by an order of the National Company Law Tribunal, Mumbai Bench, Mumbai with effect from October 30, 2018;
- b. pursuant to Section 34(2) of the Code, the powers of the Board of Directors, key managerial personnel of Rasoya ceased to have effect, and such powers had now been vested with Anil Goel, Insolvency Professional, partner of AAA Insolvency Professional LLP (having IP Registration no. IBBI/IPA-001/IP-P00118/2017-18/10253), appointed as the Liquidator under Section 34(1) by the order of the NCLT vide its order dated 11th October, 2018 (MA 237/2018 IN TCP 856/I&BP/NCLT/MAH/2017); and
- c. Section 33(5) of IBC provides that if a liquidation order had been passed, no suit or other legal proceeding should be instituted by or against the corporate debtor.

Noticee Nos. 2 (Anil Lonkar), 3 (Sameer Damle), 4 (Ajay Singh) and 5 (Prashant Duchakke)

3.4.2. Anil Lonkar has submitted his reply to the SCN by way of a letter dated June 18, 2018. Sameer Damle has submitted his reply to the SCN by way of a letter dated May 29, 2018. Ajay Singh has submitted his reply to the SCN by way of a letter dated May 01, 2018. Prashant Duchakke has submitted his reply to the by way of a letter dated May 30, 2018. Consequent to the personal hearing, Noticee Nos. 2 to 5 have also filed common written submissions dated March 31, 2021. Reliance is also placed on the correspondence exchanged between the above-mentioned Noticees and SEBI. The replies received from the above Noticees are identical, and as such, they have been clubbed together.

3.4.3. By way of the above replies, the Noticees have *inter alia* made the following submissions:

- a. the Company was started for carrying on business in the backward area of Maharashtra state i.e. Yeotmal district;
- b. the Company used to manufacture Poultry Feed, Aqua Feed, Edible soya refined oil and other protein food and supplements;
- c. the Company, to fund its operations had availed a loan amounting to Rs. 120 crore (approx.) from banks in the form of term loans for installation of various manufacturing facilities and Rs. 180 crore towards working capital;

- d. when the promoters were in need of funds for expansion of the Company, they decided to do so through equity/convertible securities/FCCB/GDR issue, and the Company decided to raise funds through FCCBs which was subsequently dropped;
- e. Anil Mehta of Pan Asia after seeing the announcement on the BSE website approached the Company for GDR issue and gave assurance to the board of the company that they would be able to raise huge funds through the GDR issue;
- f. in the belief of this assurance, the board decided to issue GDRs, and the Company engaged numerous professional agencies for facilitating the GDR issue;
- g. for the GDR issue, approval of the shareholders was taken in the Extra Ordinary General Meeting held on September 06, 2010;
- h. the directors passed the Board Resolution dated 4th October, 2010 to provide security for loan taken by the Company for its own business purpose only, and nowhere the resolution provided that the funds/GDR could be used as security by any third party for their borrowing;
- i. the SCN was issued after almost seven years from the date of GDR issue i.e. March 01, 2011;

- j. the said Noticees were never provided a proper and complete inspection of original/certified copies, and all the documents provided during inspection were photo copies except the SEBI investigation report;
- k. By way of the Order dated October 03, 2018 of the NCLT, the Company has gone into liquidation, so in view of para 4(e) of the said order, Sections 33 of the IBC and Section 279 of the Companies Act, 2013, no suit or legal proceeding can be instituted by or against the Company without prior approval of the adjudicating authority, and as such, no proceeding in the matter can be further processed against the Company and in turn its directors;
- l. in the case of Den Networks Limited, where the allegation was that the IPO was subscribed without receipt of funds, SEBI did not invoke ad-interim ex-parte order and settled the matter after payment of consent fee, so considering the same principle SEBI must record reasons and provide a reasonable explanation for following different standards in cases with similar allegations, failing which SEBI may settle the present matter in the same manner as in the case of DenNetworks Limited;
- m. necessary returns were filed with RBI with respect to the GDR proceeds, which were transferred to its subsidiary company;
- n. SEBI in its Interim Order restrains conversion of GDR into shares and being offloaded in the market, however, in spite of repeated requests,

SEBI was unable to provide any evidence for service of copy of the order on the global depositories who were in control of the GDR and converting the same into shares;

- o. even after the interim order against PAN Asia and certain companies (excluding Rasoya) SEBI did not order stoppage of conversion of GDR of Rasoya into equity shares which ultimately led to dumping of underlying shares of GDR into Indian Capital Market;
- p. it is evident from the shareholding pattern of the Company that till the Interim Order was passed on September 24, 2014, only 27.13% of GDRs were converted into shares;
- q. After the passing of the Interim Order, the remaining 72.87% GDRs were converted into shares, so the majority of the GDRs were converted by the time the confirmatory order was passed;
- r. the Company had no knowledge regarding GDR issue, it fully relied and followed the advice of PAN Asia in the entire process of GDR issue, and as such the said Noticees were made scapegoats for not having any experience of international fund raising;
- s. the directors of the Company should also be set free of all the allegations as there is no evidence to suggest that the directors/board knew about the Pledge agreement, and moreover, no GDR proceeds were ever

pledged as the entire GDR proceeds were received by the company and given to its subsidiary as loan;

- t. the Company was provided with only one list by PAN Asia, which consisted of 8 subscribers, and these investors were from various countries and not Vintage;
- u. the Company only had the depository's name as allottee in its record, and PAN Asia being the lead manager had full control over the details of the subscribers and the list was provided to the Company by them;
- v. the said Noticees or the Company were not aware of the Loan Agreement dated February 14, 2011 entered into between Vintage and EURAM Bank and had no role to play in the execution of the said agreement;
- w. the Board was completely unaware of the documentations involved in GDR issue, so it relied upon the lead manager i.e. PAN Asia, for all the procedural compliances, and all the relevant formats were provided by PAN Asia and the company or the board never doubted the same as PAN Asia was an expert in GDR issues;
- x. Prashant Duchakke had never signed the Pledge Agreement, which is seen to have been signed in Austria;

- y. Prashant Duchakke had not travelled to Austria neither on February 15, 2011, nor any time before or after that, and the same can be seen from his passport;
- z. Loan Agreement and Pledge Agreement were executed on February 14, 2011 and February 15, 2011 respectively, so the Pledge Agreement cannot be called an integral part of the Loan Agreement when it did not exist on the date of execution of loan agreement;
- aa. If account of the Company was taken as a security against loan of Vintage, then the Company should have been made a party to the Loan Agreement, but the Loan Agreement did not make the Company a party;
- bb. SEBI was unable to prove that any announcement made by RPL was false and misleading, the Company and its Board made all the compliances, followed the guidelines pertaining to GDR issue and filed necessary disclosures with regards to GDR issue;
- cc. there was no inducement by the company or the directors to the investors to subscribe to the GDR of the Company and all the subscribers were provided by PAN Asia, so the directors had a bonafide intention of raising funds;
- dd. the GDR proceeds were received by the Company and were invested in its subsidiary company in UAE, which was reflected in the Balance sheet

of the Company and nothing from the GDR proceeds were repaid by the Company back to EURAM Bank; and

ee. the entire GDR issue was controlled and manipulated by Arun Panchariya and his connected entities, who jointly defrauded the Company and the board by fraudulent documents/agreements/signatures and so on.

3.4.4. The said Noticees have in their replies relied on the following case laws:

- a. Rakesh Kathotia and Ors. V. SEBI (Appeal No. 7 of 2016) decided on May 27, 2019), Securities Appellate Tribunal; Sanjay Jethalal Soni and Ors. V. SEBI (Appeal No. 102 of 2019) decided on November 14, 2019), Securities Appellate Tribunal; and Ashlesh Shah V. SEBI (Appeal No. 169 of 2019) decided on January 31, 2020, Securities Appellate Tribunal to contend that that there was delay in the issuance of the SCN;
- b. Anvar P.V V. P. K. Basheer and Ors., (2014) 10 SCC 473 ; Natwar Singh V. Directorate of Enforcement and Anr., (2010) 13 SCC 255; and J. Yashoda V. K. Shobha Rani, AIR 2007 SC 172 to state that the documents to be relied upon should be certified;
- c. Order in the matter of Crew BOS Products Limited dated 26th October, 2018, Adjudicating Officer, Securities and Exchange Board of India and Dewan Housing Finance Corporation V. SEBI (Appeal No. 206 of

2020) decided on January 09, 2020, Securities Appellate Tribunal to contend that no proceeding can be initiated/continued against the company in liquidation and also its directors;

- d. Consent Order with respect to Den Networks Ltd. and 24 other entities in the matter of Den Networks Ltd dated March 11, 2013, Securities and Exchange board of India and RM Shares Trading Limited V. SEBI, Securities Appellate Tribunal to contend that SEBI should not have passed the ad-interim ex-parte order and settled the matter after payment of consent fee;
- e. India Focus Cardinal Fund V. SEBI, (Appeal No. 193/201) dated November 21, 2011, Securities Appellate Tribunal to contend that the shares were subscribed by paying the application money and hence allowed to sell; and
- f. Roopram Sharma V. SEBI (Appeal No.20/2002) decided on September 19, 2002, Securities Appellate Tribunal; Order in the matter of MPS Infotecnics Limited dated January 18, 2021, Adjudicating Officer, Securities and Exchange Board of India; and Adesh Jain V. SEBI (Appeal No. 217 of 2020) decided on November 19, 2020, Securities Appellate Tribunal to contend that the directors of the Company should also be set free of all the allegations as there is no evidence to suggest that the directors/board knew about the Pledge

agreement and no GDR proceeds were ever pledged as the entire GDR proceeds were received by the company and given to its subsidiary as a loan.

Noticee No. 6 (Arun Panchariya)

3.4.5. In his reply dated November 15, 2020, Arun Panchariya has stated that he has been a non-resident Indian for the last more than 20 years, has certifications in finance and has been in the financial services industry in the Middle East and Europe.

3.4.6. The Noticee has challenged the jurisdiction of SEBI to initiate the present proceedings. In this regard, the Noticee has submitted that —

- a. SEBI has no jurisdiction to initiate action against natural persons resident outside India as the scope of the SEBI Act extends to the whole of India only, and not outside India;
- b. the Noticee was never registered with SEBI or the RBI, or any other regulatory agency in India, and he never had a place of business in India and has not carried out any activities within India;
- c. Vintage FZE, which was a limited liability company incorporated under the relevant laws of the UAE, was established by him;

- d. Cardinal Capital Partners, a company incorporated in Mauritius, was established by him, and Cardinal Capital Partners in turn established India Focus Cardinal Fund ;
- e. the activities of Vintage, Cardinal Capital Partners and India Focus Cardinal Fund were carried out wholly outside India; and
- f. the subscription by Vintage of the GDRs issued by Rasoya was a purely commercial arrangement outside India, under the relevant laws, and SEBI has no jurisdiction to question this arrangement under the provisions of the SEBI Act and PFUTP Regulations.

3.4.7. The said Noticee has also denied all the allegations and charges made against him in the Show Cause Notices. In this regard, the Noticee has submitted that —

- a. the SCN is vague as it does not disclose the kind of measures SEBI is contemplating to take after 10 years, and the Noticee is completely in the dark about what exactly SEBI has in mind;
- b. there is no justification to issue the SCN in the name of the Noticee, in his personal capacity, ignoring the existence of corporate entities and transactions executed by way of legal and binding agreements between such entities;

- c. the legal entities are incorporated under respective foreign jurisdictions and many of them are also regulated by the respective financial market regulator of their respective jurisdictions, which shows that these legal entities are real, and there is no case for looking through them and arraigning the Noticee in his personal capacity;
- d. SEBI has no powers to lift the corporate veil and hold the Noticee as a beneficiary;
- e. the entities whose veils have been lifted are not entities incorporated in India, and hence the assumption of powers by SEBI to lift the corporate veil and issue a SCN to the Noticee in his personal capacity is beyond the scope of the powers of SEBI under the SEBI Act;
- f. numerous other companies have come out with GDR issues which followed the market practices allegedly now found to be illegitimate by SEBI in the year 2011;
- g. the investigation carried out by SEBI has been highly prejudiced and biased;
- h. the allegations in the SCNs are exclusively based on Xerox/Photostat copy of documents, the original of which are not available with SEBI, so the conditions precedent laid down in Section 63 and 65(a) of the Evidence Act, 1872 are not satisfied, and as such, the photostat copy of

the documents relied upon by SEBI cannot be and should not be admissible as evidence in the present proceedings;

- i. SEBI has passed various orders in which no action has been taken against the investors like Clifford Partners, Solec company limited, Seviron company limited, Fusion Investment Ltd etc., so placing reliance on the doctrine of “issue estoppel”, the Noticee must be granted similar relief and the charges against it be dropped as per the previous decisions of the Hon'ble Whole Time Member, covering essentially the same facts and addressing the same issues;
- j. The Noticee was a director in Vintage FZE till 2007, and has already resigned from it;
- k. the decisions of Vintage FZE including Loan default was taken on the circumstances in the best interest of the Company by its management;
- l. The Noticee was neither a whole-time director nor the managing director of India Focus, and during the time when the Noticee was a director, investment decisions of India Focus were taken collectively by its Board of Directors;
- m. Further, in relation to the other FIIs/sub-accounts, there is no document or evidence provided to support the allegation that they were connected to or controlled by the Noticee, except showing few connections which were totally independent business relationships; and

- n. the scheme of subscription to the GDR is not a fraudulent device as the GDR issue was made under the 1993 GDR Scheme governed by the GOI Guidelines and FEMA.

3.4.8. The said Noticee has in his replies relied on the following case laws:

- a. UMC Technologies Pvt Ltd. V. Food Corporation of India, (2021) 2 SCC 551 to contend that impugned show cause notices does not specify what action SEBI proposes to take;
- b. Salomon V. A. Salomon & Co. Ltd, [1897] AC 22 to state that the facts and circumstances of the case do not warrant lifting of the corporate veil;
- c. Smt. J. Yashoda V. Smt. K. Shobha Rani, (2007) 5 SCC 730 and Hariom Agarwal V. Prakashchand Malaviya, (2007) 12 SCC 49 to contend that photostat copies of documents cannot be relied upon since the same have not been certified by any of the authorities from which they have been obtained;
- d. Dilip S Pendse V. SEBI, Order dated November 19, 2009 in Appeal No.80 of 2009, Securities Appellate Tribunal to state that the more serious the offence, the stricter should be the degree of proof;
- e. SEBI and Others V. Kanaiyalal Baldevbhai Patel and Others , (2017) 15 SCC 1 to contend that the charges under PFUTP Regulations need to

be established as per the applicable standards rather than on mere conjectures and surmises; and

- f. Price Waterhouse & Co. and Ors. V. SEBI, Order dated September 09, 2019 in Appeal Nos.6, 7, 190 and 191 of 2018, Securities Appellate Tribunal, to contend that it must be proved by cogent evidence that the appellants are guilty of “inducement”.

Noticee No.8 (Mukesh Chauradiya)

3.4.9. The Noticee in his reply dated January 29, 2018 has *inter alia* submitted the following:

- a. the Implementing Regulations No. 1/92 (Pursuant to Law No. 9 of 1992) of Free Zone Enterprise in the Jebel Ali Free Zone Authority, UAE (“JAFZA”), under which Vintage FZE was registered, required that there shall be a single owner, and it was Arun Panchariya who was the legal and beneficial owner of Vintage;
- b. in the Shareholder’s list as on September 30, 2009/2010/2011/2012/2013 in relation to Ramsai Investment Holding Private Limited (Vintage FZE Investment Holding Private Limited), it can be clearly seen that Arun Panchariya held 9,998/18,59,013 Equity Shares in Vintage FZE, so all along Arun Panchariya was the beneficial owner of Vintage FZE ;

- c. administrative fine statement passed by the Dubai Financial Services Authority (“**DFSA**”) imposing fine of USD 12,000 on Arun Panchariya also indicates that Arun Panchariya was the Licensed Director in relation to Vintage FZE;
- d. the Noticee attempted to gather relevant information from JAFZA regarding the allegation that he was a director in Vintage, however he was denied the same and informed that he would be required to provide a court order; SEBI may seek the information from JAFZA as it would help the Noticee in defending his case;
- e. Arun Panchariya was initially the sole director, subsequently somewhere in 2010, Ashok Panchariya, his brother, replaced him as the Director of Vintage FZE;
- f. the copy of the JAFZA Visa of Arun Panchariya for the period 12/01/2010 to 11/01/2013 shows his designation to be Managing Director;
- g. the Noticee has never been the Director or Managing Director of Vintage FZE, as alleged in the SCN, and that he only held the position of Manager;
- h. the copies of the Noticee’s resident-permits for the period 14th September 2005 to 9th September 2017 show that his

designation/position was General Manager and not Director or Managing Director;

- i. the Employment Card issued to the Noticee by JAFZA shows that he has always been an employee of Vintage FZE, and not a Director or Managing Director;
- j. the decisions to subscribe to the GDRs issued by Rasoya and to obtain loan from Euram Bank for subscribing to the GDRs was taken by Arun Panchariya as the Director/sole owner of Vintage FZE, and the Noticee, as an employee, had no role to play in it;
- k. in respect of the loan agreement signed by the Noticee, it has been stated by the Noticee that he signed the document, on instructions from Arun Panchariya, owing to the conflict of interest that existed as Arun Panchariya was the Director and President of Euram Bank Asia, and he held a stake in Euram Bank Asia;
- d. the title “Managing Director” was pre-printed or part of the proforma of the Bank, and it was by oversight continued to be so;
- e. the loan availed by Vintage from Euram Bank was for the sole purpose of subscribing to the GDR of Rasoya, and the same was applied for the purposes for which it was obtained;

- f. taking a loan for subscribing to a GDR issue per-se is not a violation of any laws, especially that of UAE and JAFZA, and also is not a violation of any Indian laws;
- g. the Noticee was not aware of any arrangement that Arun Panchariya may have had with Rasoya in arranging the loan and its repayment, and that the Noticee had no role to play in the said transaction;
- l. he did not gain any other advantage, monetary or otherwise for any of the acts done by him as an employee of Vintage FZE, working under Arun Panchariya;
- m. the Noticee being a nominee director in some of the subsidiaries is true, though the same has nothing to do with the allegations contained in the present matter of GDR issue is concerned; and
- n. the Noticee requested that he be permitted to inspect all documents collected during investigation, and the recorded statement of Arun Panchariya.

Noticee No. 11 (Highblue Sky Emerging Market Fund)

3.4.10. In its reply dated January 19, 2018, it has been submitted by the Noticee that it is a limited liability company incorporated under the law of the Republic of Mauritius having its registered office at C/o Aurisse International Ltd, Suit

1909, 19th Floor, Citadelle Mall, Sir Edgar Laurent Street , Port Louis, Mauritius. We were duly registered with SEBI as an FPI until February 28, 2017.

3.4.11. It has a license issued by the Financial Service Commission (FSC) of Mauritius, and its business was in the nature of a mutual fund/hedge fund i.e., it receives fund and “in kind subscription” from investors, which it, in turn, invests in shares and securities across the global markets (including India). The investors are foreign corporates and institutional investors, and none of its investors are Indians or Non Resident Indians.

3.4.12. The said Noticee has also denied all the allegations, charges made against it in the Show Cause Notices. In this regard, the Noticee has submitted that —

- a. the allegation in the SCN that the GDRs were converted by Highblue Sky Emerging Market Fund on behalf of Arun Panchariya and his connected entities was not correct;
- b. the Noticee’s investments did not belong to Arun Panchariya or his connected entities, and the Noticee did not have any connection with Arun Panchariya or his connected entities in any manner.
- c. Anant Sharma himself approached SEBI to give his statement, and to assist in the investigation, which shows the *bonafide* intention of Anant Sharma;

- d. the fact that Arun Panchariya and Anant Sharma were Directors in one of the Indian company cannot be used to conclude that Anant Sharma was connected with Arun Panchariya in all businesses, which were independently handled by Anant Sharma;
- e. also Anant Sharma had resigned from the directorship of Alka India Limited, whose promoter, Satish Panchariya was the brother of Arun Panchariya, with effect from March 28, 2016;
- f. the past employment of Anant Sharma did not affect the business decisions of the Fund, and Anant Sharma had never hidden any information about his past employment, which was disclosed to FSC and other regulatory authorities, at the time of his appointment as a Director in Golden Cliff and Emerging Market Opportunities Fund, and also to ICICI bank while seeking conversion of Sub-account Emerging Market Opportunities Fund (Previously known as Highblue Sky Emerging Market Fund) into FPI;
- g. as regards the allegation that on the website, hbs-fund.com, Global Finance and Capital Limited and a testimonial of Arun Panchariya were placed at a prominent place, the Noticee has submitted that they were unaware of the same and the website was not in use after the name change, and the same had been notified to the Central CID Police

Mauritius as an attempt of hacking with reference number OB5/2018;
and

- h. Aurisse was the management company for Highbluesky Emerging Market Fund, and provided services, viz., accounting, NAV calculations, provision of Directors, Secretary, Registered office, maintenance of books and accounts, filing of change on Directors, shareholders, tax advice etc., which was a normal practice so the KYC documents of Highblue Sky showed its address and contact numbers being common with one Aurisse fund.

Noticee No. 12 (Leman Diversified Fund)

3.4.13. The Noticee in his replies dated January 12, 2018; January 29, 2018; February 26, 2018; April 14, 2021 and June 04, 2021, has *inter alia* submitted the following:

- a. the Noticee was incorporated on July 6, 2010 under the laws of the Republic of Mauritius as a public Company, and holds a category 1, Global Business License and is an investment company with limited liability;
- b. the Noticee was an Expert Fund of Unlimited duration, incorporated in Mauritius under the Financial Services Act, 2007 and the Securities Act, 2005;

- c. the Noticee was registered as a Foreign Portfolio Investor (FPI) with SEBI under the SEBI (Foreign Portfolio Investors) Regulations, 2014 and invests in India through the FDI route or the portfolio management route;
- d. the Noticee was authorised to issue two kinds of shares: participating shares and management shares; participating shares were for the investors wanting to invest in the company and management shares allotted to the investment manager(s);
- e. participating shares could be bought either in cash or in kind i.e., acceptance of securities as consideration for the purchase of shares instead of cash;
- f. the Noticee came to have the GDRs of Rasoya after Global Emerging Strategies Fund – The Namam Fund (“**GESF- Namma**”) subscribed to the participating shares of the Noticee by paying the consideration in kind;
- g. GESF- Namma had delivered to the Noticee in aggregate 3,240,267 GDRs of Rasoya during the period May 28, 2013 to November 20, 2014 as subscription in kind, and the transactions were effected through the following agreements:

- Subscription Agreement dated May 28, 2013 in respect of investment of 5,25,147 GDRs of Rasoya by GESF- NAMMA in Leman,
 - Subscription Agreement dated July 03, 2013 in respect of investment of 1,86,172 GDRs of Rasoya by GESF- NAMMA in Leman,
 - Subscription Agreement dated August 14, 2013 in respect of investment of 8,12,934 GDRs of Rasoya by GESF- NAMMA in Leman,
 - Subscription Agreement dated September 26, 2014 in respect of investment of 7,16, 014 GDRs of Rasoya by GESF-NAMMA in Leman, and
 - Subscription Agreement dated November 20, 2014 in respect of investment of 10,00,000 GDRs of Rasoya by GESF — Namma in Leman;
- h. The GDRs/shares of Rasoya were acquired by the Noticee in the ordinary course of business in accordance with the laws of Mauritius and Bermuda by execution of necessary documents and until the receipt of the SCN from SEBI, the Noticee had no information regarding any irregularity in respect of the GDRs of Rasoya;

- i. the Noticee was holding the GDRs of Rasoya as investment/ subscription amount of GESF- Namma and, as such, was not holding the shares of Rasoya as part of a fraudulent scheme, as alleged in the SCN;
- j. the sale of shares of Rasoya by the Noticee in the Indian securities market has not caused any loss to the investors, as alleged and the Noticee having acquired good title, right and interest in the said shares can further transfer them for lawful consideration;
- k. The allegation of connection between AP and the Noticee is sought to be made out through Highblue Sky, where one Anand Kailash Chandra Sharma was a Director of Highblue Sky Emerging Market Fund (HBSF) along with Aslam Kanowah;
- l. the SCN, has asserted that Anand Kailash Chandra Sharma was connected to Arun Panchariya as he was a director of Saint Advisory (I) Private Limited along with Arun Panchariya and another director of Highblue Sky namely Aslam Kanowah who was also a Director of Aspire Emerging Fund along with Ashish Nanda;
- m. it has further been asserted that Ashish Nanda was Managing Director of Image Securities Limited, who as per the SCN, was an investor in Leman, the Noticee;

- n. the contention in the SCN that Al Jalore and Image Securities Ltd had invested in this Fund is erroneous and without any basis.
- o. the Noticee has no connection whatsoever with Aspire Emerging Fund, Noticee No.13 and Highblue Sky Emerging Market Fund, Notice No. 11), also the allegation in the SCN that the Noticee is connected to AP by virtue of its connection with Highblue Sky is without any basis or material on record;
- p. the Noticee has no connection with Arun Panchariya, Noticee No. 6 or any of the entities connected with him, and the Noticee has no connection with Rasoya, Noticee No. 1 or any of its directors and promoters; and
- q. as such, the Noticee was not aware of any fraudulent scheme devised by Arun Panchariya, Arun Panchariya connected entities and the directors of Rasoya.

Noticee No. 13 (Aspire Emerging Fund)

3.4.14. The Noticee by way of its replies dated February 06, 2018; April 27, 2021 and May 24, 2021 has responded to the allegations made in the SCN. The Noticee has submitted that it was incorporated in Mauritius as a private company with limited liability under the laws of Mauritius on February 09, 2011 having its registered office at Suite 1909, 19th Floor, Citadelle Mall, Dr. Eugene Laurent Street, Port-Louis, Mauritius. It has further been stated

by the Noticee that it holds a Category 1 Global business license issued by the Financial Commission of Mauritius as an expert fund licensed by the FSC pursuant to the Financial Service Act 2007, the Securities Act 2005 and the Securities (Collective Investment Scheme and Closed end Fund) Regulations 2008. It has further been submitted that from February 28, 2017, the Noticee has been registered as a Foreign Portfolio Investor (“**FPI**”) with SEBI under the FPI Regulations, 2014. Furthermore, Ashish Nanda, the director of Aspire from November 30, 2012 to July 09, 2014 was a Chartered Accountant by profession and an experienced entrepreneur with deep expertise in financial products and services. He has been in the financial industry for the last 26 years, of which 22 years have been in Dubai, UAE.

3.4.15. In this regard, the Noticee in its submissions has made the following preliminary submissions:

- a. Vintage had transferred 1,34,368 GDRs to AFR Asia Bank Mauritius and 2,92,310 GDRs to Standard Bank Mauritius, no adverse inferences have been drawn against them in the SCN, similarly, when the Noticee in the ordinary course of our share trading activity acquired GDRs of RPL, no adverse inferences ought to have been drawn against it by SEBI;

- b. Annexure Nos. 11,12,13, 16 to 20, 25,31,32 and 36 even though forming part of the Investigation Report have not been provided with the SCN, and as such, should have been furnished to the Noticee; and
- c. SEBI has passed two Orders dated September 24, 2014 and March 23, 2015 against Noticee Nos. 1 to 10 of the SCN on the same subject matter and the name of the Noticee was not in the said Orders, however, no reference to the same has been made in the impugned SCN.

3.4.16. The Noticee has made the following submissions on merits:

- a. the SCN shows that the total traded value of the shares of Rasoya amongst the four funds is Rs. 143.30 Crores, out of which the total traded value of the Noticee was only Rs. 5.27 Crores i.e. 3.68% of total traded value;
- b. India Focus sold shares from April 27, 2011 to December 06, 2012, Highblue Sky sold shares from June 05, 2012 to August 04, 2015, Leman sold shares from September 13, 2013 to March 13, 2015, whereas the said Noticee sold shares from 20.02.2015 to August 06, 2015, so based on this chronology a distinction needs to be made between the present Noticee and the other three sub-accounts;
- c. Arun Panchariya, Arun Panchariya entities or Vintage were not directly or indirectly connected to the present Noticee and was the case with the fund being run by the Noticee;

- d. the Noticee were unaware of any alleged Loan or pledge agreement and we are not connected with the same;
- e. the connection with Arun Panchariya and other Arun Panchariya connected entities has been attempted to be established mainly on the ground that Aslam Kanowah who was also director of Highblue Sky (along with Anant Sharma) was also a director of the present Noticee along with Ashish Nanda, the MD of Image Securities Limited;
- f. the business decisions of the Noticee were always taken independently in the best interest of the investor, and having common directors cannot establish the link between two entities;
- g. Aslam Kanowah was CEO of Aurisse International and as per the contractual agreement with Aurisse, two local directors were provided and appointed by Aurisse in the Noticee, because of which Aslam was appointed as a director, which is a common practice in Mauritius and Mauritius law allows companies to provide such service;
- h. the Noticee was not aware of any connection between Golden Cliff and Arun Panchariya and his connected entities and nor were there any reasonable grounds at any time during the period between February, 2014 and February, 2017 for the Noticee to suspect about any such connection;

- i. the Noticee has been an investor in the Indian market since 2013 and for the period 2013 to 2020 the total turnover of its investments was around Rs. 683 crore (Rs. 421 crore worth of buy transactions and Rs. 262 crore worth of sale transactions) in equity shares of around 240 scrips, excluding the GDR scrips;
- j. in the F&O segment, the Noticee's total turnover for the year 2020 was around Rs. 105 crore and the total turnover for the period 2016 to 2020 was around Rs. 1,270 crore;
- k. the intention of dealing in GDRs was to gain arbitrage between the GDR's price and the underlying share price, so as a regular strategy, the Noticee would purchase GDRs in foreign stock exchanges, where the GDRs were listed, then cancel the GDRs and convert the same into equity shares and sell the said equity shares in the Indian secondary market when the opportunities arose;
- l. the private placement memorandum issued by the Noticee clearly states the above-mentioned investment objective for dealing in GDRs;
- m. the Noticee acquired 5,87,417 GDRs (Post Bonus Issue) from Ambrus Value Fund Ltd having its address at c/o MQ Services Ltd, Victoria Place, 31 Victoria Street, Hamilton HM10, Bermuda, and in consideration of the same issued to Ambrus Value Fund Ltd.

1,41,011.5712 shares on March 06, 2015 valued at \$ 99,441.36, by way of GDRs;

- n. the sale of the shares of Rosaya by the Noticee was in the month of February, March, May to August 2015 between the price range of Rs 0.25 to Rs 0.52, and as per the price volume chart of February, March, May to August 2015 of BSE the scrip had touched a high of Rs. 0.79 at BSE on March 23, 2015 and a low of Rs. 0.21 at BSE on August 31, 2015; so the shares were traded within the normal price range;
- o. disclosures under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 have been made by the Noticee as regards trading in the scrip of Rasoya;
- p. for any authority to arrive at a finding of 'fraud' solely on the basis of our dealings in the GDRs and scrip of RPL same cannot be pressed against an individual on random allegations based on surmises and conjectures and
- q. the allegations that the Noticee has violated /contravened the provisions of Section 12 A (a), (b), (c) of SEBI Act, 1992 and Regulation 3 (a),(b),(c),(d) and Regulations 4(1) of SEBI was denied.

3.4.17. The said Noticee has in its replies relied on the following case laws:

- a. Order dated 12.12.2019 passed by Adjudicating Officer , SEBI in respect of KIT Ltd. in the matter of GDR issues ; Order dated 08.06.2018 passed by the Honble Securities Appellate Tribunal in the matter of KIT Limited Vs. SEBI; Order dated 25.09.2013 passed by WTM, SEBI in the matter of Mavi Investment Fund Limited; and Order dated 05.05.2017 passed by WTM, SEBI in respect of Sophia Growth A:Share Class of Somerset India Fund, Sub-Account in the matter of Market Manipulation using GDR issue to contend that in similar matters, where no connection could be established with Arun Panchariya, the proceedings were disposed of without imposing any monetary penalty;
- b. R. K. Global Shares and Securities Ltd. V. SEBI (Appeal no. 158/2008) decided on September 16, 2010, Securities Appellate Tribunal; Narendra Ganatra V. SEBI (Appeal No. 47 of 2011) decided on July 29, 2011, Securities Appellate Tribunal; Sterlite Industries (India) Ltd. V. SEBI, (2001) 34 SCL 485, Securities Appellate Tribunal; Parsoli Corporation V. SEBI (Appeal No 146/2011) decided on August 12, 2011, Securities Appellate Tribunal; and Ram Sharan Yadav V. Thakur Muneshwar Nath Singh Ors, (1984) 4 SCC (4) 649, to contend that for any authority to arrive at a finding of ‘fraud’ strict proof would be required and cannot be solely decide on the basis of our dealings in the GDRs and scrip of Rasoya;

- c. Gorkha Security Services V. Govt. of NCT of Delhi and Ors., (2014) 9 SCC 105 and Royal Twinkle Star Club Private Ltd v. SEBI (Appeal No. 436 of 2015) decided on February 3, 2016, Securities Appellate Tribunal to contend that SEBI should provide notice of what specific measure SEBI is contemplating, so that the Noticee is able to present their case on the suitability /appropriateness or otherwise of the specific measure proposed.

Noticee No. 15 (EURAM Bank)

3.4.18. In its replies dated December 21, 2017 and July 08, 2020, it has been submitted by the Noticee that there is not a single finding against Euram as an FII, in either the SCN or otherwise, that it has violated any provision of the SEBI Act or the PFUTP Regulations or FII Regulations.

3.4.19. The Noticee in its submissions has made the following preliminary submissions:

- a. the period under investigation in the present matter was March 25, 2011 to April 25, 2011, the first SCN in the matter was issued only on February 01, 2018, after a period of almost seven years, and the hearing in the matter happened almost a decade after the investigation period, so this could not be construed as a reasonable period of time;
- b. in the order of the Hon'ble Member dated January 25, 2012 (WTM/PS/ISD/64/01/2012), which was passed over 8 years ago, it was

directed that “SEBI shall expeditiously complete the investigation in the matter, in the interest of justice and thereafter shall immediately take appropriate actions in accordance with law.”; and

- c. so, the present proceedings are barred in light of the inordinate delay and on account of the doctrine of laches.

3.4.20. The Noticee has made its submissions on merits under three broad heads:

- a) Euram Bank has no connection with Arun Panchariya; b) Euram Bank was not involved in any fraudulent practice in relation to the Indian stock markets; and c) issues in the present matter have already been dealt with by SEBI in its earlier orders.

3.4.21. With respect to the assertion that there was no connection between EURAM Bank and Arun Panchariya, it has been submitted by the Noticee that —

- a. Arun Panchariya was never a director or had any material role in Euram Bank, EURAM's association with Arun Panchariya was limited to the Dubai joint venture entity — EURAM Bank Asia Limited;
- b. EURAM Bank set up EURAM Bank Asia Limited to explore business opportunities in the Middle East region, which has now been dissolved;
- c. EURAM was misled into entering into a JV with Arun Panchariya and at that time, due to representations by Arun Panchariya, thought it to be a way for EURAM to connect with private investors in the Middle East;

- d. Ever since EURAM learnt of Arun Panachariya's involvement in the GDR manipulation, it has taken steps to end this JV and it was ultimately dissolved on December 30, 2013;
- e. SEBI has relied on the Dubai Financial Services Authority's Administrative Fine Statement, whereby Arun Panchariya was fined USD 12,000 for failure to disclose his directorship and control over various entities to DFSA, to establish Arun Panchariya's connections with and control over Pan Asia Advisors, Vintage FZE and IFCF, but SEBI has failed to note that there is no mention of EURAM in that list of entities in which Arun Panchariya has control or directorship;
- f. EURAM Bank Asia Limited has not at any point dealt in or provided any assistance in connection with any transaction related to the Indian securities market, including the transactions that were undertaken by IFCF through Euram as an FII;

3.4.22. With respect to the assertion that Euram Bank was not involved in any fraudulent practice in relation to the Indian stock markets, it has been submitted by the Noticee that —

- a. EURAM Bank's dealings as a bank incorporated in Austria were regulated by the Austrian regulators, and as such, do not fall under the jurisdiction of SEBI;

- b. EURAM Bank has been extensively investigated by the Austrian Financial Market Supervisory Authority and the Austrian Public Prosecutor for White Collar Crime and Corruption and both have cleared EURAM from all regulatory, civil and criminal charges;
- c. The White Collar Crime and Corruption while dealing with a complaint against Euram by one of the GDR issuer companies, alleging fraud in the execution of the pledge agreement therein, has cleared EURAM Bank and its directors of all criminal charges and noted that the structure i.e., of granting Vintage a loan to subscribe to the GDRs of the company, secured by way of pledge on the GDR proceeds, was sound from an economic analysis perspective and there was no wrongdoing attributable to Euram;
- d. Euram had simply lent a sum of money to Vintage for the specific purpose of subscribing to the Rasoya's GDR issue., for which Euram sought adequate security and towards that end, obtained Rasoya's pledge, thereby creating a charge on the proceeds from the GDR issuance in favour of Euram;
- e. Euram Bank's dealings were entirely on an arm's length basis, and as per banking best practices as followed in Austria, where it was incorporated and operated;

- f. Euram exercised due diligence to verify that the persons executing the loan and pledge agreements were appropriately authorised to do so by the board of the GDR issuer company;
- g. while registering IFCF as a sub-account, EURAM Bank exercised necessary precaution, and only after conducting a thorough diligence viz., checking all of the prescribed credentials of IFCF and fulfilling the mandated KYC norms, it did give IFCF registration as its sub-account, which has also been validated by SEBI;
- h. Euram had no control over the investment strategies and decisions of IFCF, and it cannot be held responsible for the same;
- i. Euram offered a bouquet of financial services, one of which was to offer a terminal for its clients to make investments — the investments themselves were made directly by the clients;
- j. Euram cannot be penalised merely for not having invested directly in the Indian markets, and it would be a stretch to say that Euram registered itself as an FII merely to facilitate transactions by IFCF, without any actual finding to that end;
- k. Euram was the FII for IFCF only for a limited period of time up till July 19, 2011, after which a transfer was granted by SEBI and Cardinal Capital Partners became the FII for IFCF.;

- l. Euram Bank extended all support to the investigation and in fact had also reported suspected money laundering by Arun Panchariya to the Austrian Federal Criminal Police Office under the Federal Ministry of the Interior, and cooperation and support was extended by Euram to the investigation process which has helped SEBI establish key elements of the fraudulent scheme; and
- m. Euram made no unwarranted gains out of the scheme, it simply lent money to one entity and when that entity failed to repay, Euram proceeded to enforce the security, as such, it had no interest or reason to be part of the fraudulent scheme.

3.4.23. With respect to the assertion that the issues in the present matter have already been dealt with by SEBI in its earlier orders, it has been submitted by the Noticee that —

- a. in previous decision dated September 5, 2017, the Hon'ble Whole Time Member, SEBI in the matter of *Alleged Market Manipulation Using GDR Issues by Asahi Infrastructure & Projects Ltd; Avon Corp. Ltd.; CAT Technologies Ltd.; IKF Technologies Ltd.; K Sera Sera Ltd; and Maars Software Intl. Ltd.* (SEBI/WTM/SR/EFD/64/09/2017), covering essentially the same facts and addressing the same issues as in the present matter, has granted relief to Euram, so similar relief should be granted in the present matter and the charges should be dropped;

- b. the Hon'ble Supreme Court has held that issue estoppel is established if the same issue of fact had already been decided in an earlier case;
- c. the defence of issue estoppel, not only applies to proceedings before judicial authorities proper but extends to quasi-judicial authorities and administrative authorities; and
- d. therefore, the present authority can afford the benefit of such cardinal principles as issue estoppel to Euram.

3.4.24. The said Noticee has in its replies relied on the following case laws:

- a. Samir Arora V. SEBI, (2005) 59 SCL 96 (SAT), Nirmal Bang Securities Pvt. Ltd. V. SEBI, (2004) 49 SCL 421 and KSL & Industries Ltd V. SEBI (Appeal No. 9 of 2003) to contend that where serious malpractices such as insider trading and fraudulent trade practices are concerned, charges must be proved based on cogent materials and in accordance with law;
- b. Rakesh Kathotia & Ors. V. SEBI Order dated May 27, 2019 in Appeal No. 7 of 2016, Securities Appellate Tribunal, Sanjay Jethalal Soni V. SEBI, Order dated June 28, 2019 in Appeal No. 483 of 2018, Securities Appellate Tribunal, Subhkam Securities Private Limited V. SEBI (SAT Appeal no. 73 of 2012) and Khandwala Securities V. SEBI, Order dated September 7, 2012 in Appeal no. 19 of 2012, Securities Appellate Tribunal to state that SEBI is required to exercise its powers within a reasonable period; and

- c. Hope Plantation Ltd. V. Taluk Land Board, (1999) 5 SCC 590, Viiaayabai V. Shriram Tukaram, (1999) 1 SCC 693 and Bhanu Kumar Jain V. Archana Kumar, (2005) 1 SCC 787 to contend that the doctrine of issue estoppel is a key element of res judicata.

Noticee No. 16 (Golden Cliff)

3.4.25. In its reply dated January 19, 2018, it has been submitted by the Noticee that is a limited liability company incorporated under the law of the Republic of Mauritius having its registered office at C/o Aurisse International Ltd, Suit 1909, 19th Floor, Citadelle Mall, Sir Edgar Laurent Street, Port Louis, Mauritius. It was duly registered with SEBI as an FII until February 28th, 2017.

3.4.26. The said Noticee has also denied all the allegations, charges made against it in the Show Cause Notices. In this regard, the Noticee has submitted that —

- a. the allegation in the SCN that Golden Cliff did not make any investment in India except through its sub-account Highblue Sky was not correct;
- b. its sub-account holders have invested in primary and secondary markets other than the Indian GDR issue;
- c. the fact that Arun Panchariya and Anant Sharma were Directors in one of the Indian companies cannot be used to conclude that Anant Sharma was connected with Arun Panchariya in all business, which were independently handled by Anant Sharma;

- d. the allegation that Golden Cliff was connected to Arun Panchariya, on the ground that Anant Sharma and Reema Shetty were connected to Arun Panchariya, was not correct as the cancellation of GDRs and the sale of the converted equity shares of Rasoya were done upto May 17, 2013, which was prior to the association of Anant Sharma (September 09, 2014) and Reema Narayan Shetty (September 12, 2013);
- e. Anant Sharma himself approached SEBI to give his statement, and to assist in the investigation, which shows the bonafide intention of Anant Sharma;
- f. Also Anant Sharma had resigned from the directorship of Alka India Limited, whose promoter, Satish Panchariya was the brother of Arun Panchariya, with effect from March 28, 2016; and
- g. the past employment of Anant Sharma did not affect the business decisions of the Fund, and Anant Sharma had never hidden any information about his past employment, which was disclosed to FSC and other regulatory authority, at the time of his appointment as a Director in Golden Cliff and Emerging Market Opportunities Fund, and also to ICICI bank while seeking conversion of Sub account Emerging Market opportunities Fund (Previously known as Highblue Sky Emerging Market Fund) into FPI.

Noticee No. 17 (KBC Aldini Capital Limited)

3.4.27. The Noticee by way of its email reply dated December 24, 2017 has submitted that –

- a. it was in no way related to Arun Pancagriya or any of its related entities;
- b. the Noticee was based in Dubai as an Investment Bank and regulated by the Dubai Financial Services Authority (“**DFSA**”);
- c. the Noticee in 2009-2010 set up a sub-fund in Mauritius by the name KBC Aldini Capital Ltd whose FII was KBC Aldini Capital Ltd, Dubai;
- d. KBC Aldini Capital Ltd, Dubai was active whereas KBC Aldini Capital Ltd Mauritius was closed and the name changed to Highblue Sky Emerging Market Fund in 2010; and
- e. Daniel Baumslag was a director in KBC Aldini Capital Dubai but not in KBC Aldini Mauritius.

3.4.28.Relevant Provisions

3.4.29.Provisions of the SEBI Act —

Section 12 A (a), (b), (c)

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

“12A. No person shall directly or indirectly—

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;
- (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;
- (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder”

3.4.30. Provisions of the SEBI (PFUTP) Regulations, 2003 —

Regulation 3(a), (b), (c) and (d)

3. Prohibition of certain dealings in securities

“No person shall directly or indirectly—

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in

contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.”

Regulation 4 (1) and (2)

4. Prohibition of manipulative, fraudulent and unfair trade practices

“(1)Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.

(2)Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following, namely:—

(a) ... ;

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or

which he does not believe to be true prior to or in the course of dealing in securities;

(k) an advertisement that is misleading or that contains information in a distorted manner and which may influence the decision of the investors;

(r) planting false or misleading news which may induce sale or purchase of securities.”

4. Issues

I. Whether Rasoya Proteins Limited (Noticee No.1) by allowing the GDR proceeds to be used as security for a loan that was availed by Vintage FZE (Noticee No.7) towards the subscription of GDRs issued by Rasoya, and not disclosing the same to the stock exchanges, had devised a scheme with Vintage to defraud the investors ?

II. Whether the Directors of Rasoya Proteins Limited, namely, Anil Lonkar (Noticee No.2), Sameer Damle (Noticee No. 3), Ajay Singh (Noticee No.4) and Prashant Duchakke (Noticee No. 4) who authorised EURAM Bank to use the GDR proceeds as security in connection with the loan acted as parties to the fraudulent scheme, and whether the Directors of Vintage namely, Arun Panchariya (Noticee No.6) and Mukesh Chauradiya (Noticee No. 8), were involved in perpetrating the fraudulent scheme ?

III. Whether the Lead Manager to the issue, Pan Asia Advisors Ltd. (Noticee No.9) acted as a party to the fraudulent scheme?

IV. Whether the sub-accounts namely, India Focus Cardinal Fund (Noticee No. 10), Highblue Sky Emerging Market Fund (Noticee No. 11), Leman Diversified Fund (Noticee No. 12) and Aspire Emerging Fund (Noticee No. 13), and the FIIs namely, Cardinal Capital Partners (Noticee No. 14), EURAM Bank (Noticee No. 15), Golden Cliff (Noticee No. 16) and KBC Aldini Capital Ltd. (Noticee No. 17) through whom the sub-accounts traded in the Indian securities market, acted pursuant to the fraudulent scheme?

V. Whether Vintage (Noticee No. 7), India Focus Cardinal Fund (Noticee No. 10), Highblue Sky Emerging Market Fund (Noticee No. 11), Leman Diversified Fund (Noticee No. 12) and (Noticee No. 13) should be directed to disgorge the illegal gains?

5. Consideration and findings –

5.1. Before proceeding with the merits of the matter, it would be relevant to deal with the preliminary objections raised by certain Notices.

Jurisdiction of SEBI challenged as GDR issue done outside India

5.2. Noticee No. 6, Arun Panchariya has raised this objection since the GDR issue process took place outside the territorial boundaries of India, SEBI has no jurisdiction in the matter. It is stated that the said question has already been

answered by the Hon'ble Supreme Court of India in its judgment dated July 06, 2015 in the matter of *Securities and Exchange Board of India V. Pan Asia Advisors Ltd and Another in Civil Appeal No. 10560/2013, AIR 2015 SC 2782*. The case came before the Hon'ble Supreme Court pursuant to an appeal by SEBI against the order dated September 30, 2013, passed by the Hon'ble Securities Appellate Tribunal ("SAT"), Mumbai, in Appeal No.126 of 2013. The Hon'ble SAT by way of its above mentioned order had set aside SEBI's Order dated June 20, 2013, whereby SEBI had debarred Pan Asia Advisors and Arun Panchariya for a period of ten years in dealing with securities with respect to their roles in the issuance of GDRs by six companies. In this background, the Hon'ble Supreme Court through the said judgement has clarified the scope of SEBI's territorial jurisdiction, especially with respect to the issuance of GDRs by companies. The Hon'ble Supreme Court noted that GDRs are issued by an overseas depository bank on the basis of the shares deposited by a company with a domestic custodian bank in India. Considering this, the Supreme Court held that since GDR issuances were backed by underlying shares held by the Domestic Custodian Bank in India, a GDR can be construed as a right or interest in securities. Section 2(h) of the Securities Contracts (Regulation) Act, 1956, which enlists the instruments that can be considered as 'Securities' and includes rights or interest in securities among those. Further, the Hon'ble Supreme Court placed reliance on the case of *GVK Industries Officer v. Income Tax Officer (2011) 4 SCC 36*, where it had been held that a law may proceed against an extra-territorial aspect, in case it had "*got a cause and something in*

India or related to India and Indians in terms of impact, effect of consequence”. The court also placed reliance on the effects doctrine; which meant that in case the allegations of manipulation were true, there would be adverse consequences in the Indian securities market. In view of above-mentioned reasons, the Hon’ble Supreme Court concluded that any fraudulent activity impinging upon the interests of Indian investors would squarely fall within the jurisdiction of SEBI. Thus, it was held by the Court that SEBI had the powers to initiate action against Pan Asia Advisors and Arun Panchariya, even though they were based outside India, since their actions impinged upon the interests of Indian investors.

5.3. Thus, the issue of jurisdiction of SEBI in GDR matters having been settled by the Hon’ble Supreme Court, I proceed to consider the matter on merits.

Proceedings not maintainable owing to delay

5.4. With respect to the submission of Noticee No.15, EURAM Bank, that there has been delay in the proceedings, it is seen from the record that documents *inter-alia* in the captioned matter were obtained from the Financial Market Authority, Austria on January 22, 2016 and Financial Services Commission, Mauritius on September 15, 2016. Consequent to the receipt of documents as above, investigation was initiated into the GDR issue of Rasoya and the said investigation was completed in the year 2017. After the completion of investigation in the matter, a Show-Cause Notice dated December 04, 2017 was issued to the Noticees. Further, a Supplementary Show-cause Notice dated January 17, 2019 was issued to

Noticee Nos 7, 10, 11, 12 and 13 . Also, as many of the Noticees were based out of India the service of the said Show-Cause Notices involved processes which required more time. Once the said Show-Cause Notices were served on all the Noticees, personal hearings were granted to the Noticees who had sought for the same.

5.5. The Hon'ble SAT in its *Order dated February 05, 2020 in Appeal No. 376 of 2019, Jindal Cotex Limited and Ors Vs. SEBI*, while dealing with the question of delay, held that arguments on delay in investigation and consequently affecting natural justice were devoid of any merit. In the aforesaid matter, the Hon'ble Tribunal, while dismissing the ground of delay acknowledged the complexity involved in the investigation of the manipulative GDR issue and the time taken by SEBI to gain information relating to the various entities from multiple jurisdictions.

5.6. Similarly, in the matter of *G. V. Films Ltd. Vs. SEBI. (Order dated February 15, 2021 in Appeal No. 168 of 2020, Securities Appellate Tribunal)* the Hon'ble SAT opined on the issue of delay in a similar matter pertaining to issue of GDRs as follows:

“Having heard the learned counsel for the parties on this issue, we find that there is no doubt that there has been a delay in the issuance of the show cause notice after 10 years from the date of the GDRs issue. However, on this ground of delay, the proceedings cannot be quashed for the reasons that we find that an investigation was required to be done beyond the borders of India which took time.”

(Underline added)

5.7. Thus, in view of the above, I do not accept that the delay in the matter would vitiate the proceedings.

All Documents/ Annexures of Investigation Report not Provided by SEBI

5.1. Noticee No 2 to 5 have submitted that all the documents in the matter were not provided to them. Noticee No 8 has also submitted that all the documents collected during the investigation process should have been provided to him. Similarly, Noticee No. 13 has submitted that annexures of the Investigation Report on the basis of which the SCN was issued, was not provided to him. Further, it has been submitted by Noticee No. 6 that the allegations made in the SCNs were based on Xerox/Photostat copy of documents, and so those documents do not satisfy the conditions of Sections 63 and 65(a) of the Evidence Act, 1872 and the same cannot be admissible as evidence in the present proceedings.

5.2. From the SCN and Annexures, I find that all the relevant and relied upon documents in support of the SCN and also the findings of the investigation captured in the SCN have been forwarded to Noticee Nos. 2 to 5 and Noticee No. 8. It is noted that Noticee Nos. 2 to 5 had sought inspection of documents and the same was provided on January 19, 2018 to Noticee No. 5; on January 19, 2018 to Noticee No. 4; on February 20, 2018 to Noticee No. 3; and on May 25, 2018 to Noticee No. 2. Similarly, Noticee No.8 had sought inspection of documents and the same was provided to the Noticee on April 30, 2018. Mr. Devendra Dhanesha,

the authorised representative of Noticee No. 8 carried out inspection of the documents relied upon by SEBI. As regards, Noticee No. 13, it is again stated that all the documents relied upon in the SCN have been provided.

5.3. In this regard, it would be appropriate to refer to the Order of Hon'ble SAT dated September 13, 2021 in Pooja Wadhawan V. SEBI (Misc. Application No. 822 of 2021 in Appeal No. 487 of 2021), whereby the Hon'ble Tribunal while dealing with the issue of supply of documents in proceedings before SEBI, has observed that: *“The Supreme Court in Natwar Singh (Natwar Singh V. Enforcement Directorate, clearly underlines that the principles of natural justice does not require supply of documents upon which no reliance has been placed by the authority and that the principle of natural justice are not intended to act as a roadblock to obstruct statutory requirements.”*

5.4. As regards, the assertion of Noticee No. 6 that the documents relied upon by SEBI were merely photocopies and not originals, it is stated that since a lot of the entities involved in GDR matters were incorporated/registered in foreign jurisdictions, the documents in the matter had to be obtained from the regulators in those jurisdictions, namely, Financial Market Authority, Austria; Financial Services Commission, Mauritius; and Dubai Financial Services Authority. With respect to the applicability of the provisions of the Indian Evidence Act, 1872, as raised by Noticee No. 5, it is stated upfront that the present proceedings are in the nature of quasi-judicial proceedings, and are not bound by the strict rules of evidence. In cases where primary evidence is not available, reliance on information supplied by Regulators abroad along with photocopies of the underlying documents would

constitute sufficient evidence. I also find that the objections are merely raised to deflect the focus from the core issues.

5.5. In view of the aforesaid, I find that the contentions of the above-mentioned Noticees with respect to the documents relied upon are untenable.

Specificity of Violations Alleged in the SCN

5.6. Arun Panchariya (Noticee No. 6) has also submitted that the SCN is vague as it does not disclose the kind of measures SEBI is contemplating to take after 11 years and the Noticee is completely in the dark about what exactly SEBI has in mind. In the instant proceedings, the SCN has been issued for breach of provisions of securities law, which confer discretion upon SEBI to take such measures as it thinks fit in the interest of investors and securities market. In this regard, it is further noted that the SCN issued to the Noticee has clearly spelt out the provisions under which the desired preventive/remedial measures, etc. if found necessary, would be issued and also clearly indicate the specific nature of violations that have been alleged against it in terms of different provisions of the PFUTP Regulations, 2003. Therefore, it is observed that specific allegations were unambiguously conveyed to the Noticee and further, opportunity was given to the Noticee for tendering its response thereto. It is, therefore, incumbent on the part of the Noticee to explain its position with support of relevant evidence in response to various allegations made against it in the SCN. Only after examining and considering the explanation offered by the Noticee to the allegations levelled under

the SCN, it would be possible for the Competent Authority to determine as to what directions are required to be issued against the Noticee, depending on its role in the alleged violations and the impact of the alleged violations on the securities markets. It is to be noted here that the powers of SEBI under Sections 11(1), 11(4) and 11B of the SEBI Act include the plenary power to issue wide ranging directions as it may deem fit, in the interest of securities market which cannot be crystallised and formulated before the adjudication of issues involved.

Issue I- Whether Rasoya had devised a scheme with Vintage to defraud the investors?

5.7. The SCN has alleged that issuance of GDRs by Rasoya was fraudulent as the Company had entered into a Pledge Agreement with the bank, EURAM Bank for a loan that had been availed by Vintage towards the subscription of GDRs issued by the Company. The Pledge Agreement was not disclosed to the stock exchanges which, the SCN alleges, made the investors believe that the said GDR issue was genuinely subscribed by the foreign investors.

5.8. No reply has been received from the subscriber of the GDRs i.e., Vintage. Reply with respect to the Company has been received from the Liquidator. The Liquidator in its reply has primarily stated that –

- a. Anil Goel, Insolvency Professional, partner of AAA Insolvency Professional LLP has been appointed as the Liquidator under Section 34(1) of the IBC by the Order dated October 11, 2018 order of the NCLT;
- b. liquidation process had commenced in respect of the Company with effect from October 30, 2018; and
- c. as a liquidation order has been passed, no suit or other legal proceeding should be instituted by or against the corporate debtor.

5.9. Before proceeding with the consideration of the allegations on merits, it would be relevant to examine the prohibition under the IBC, as advanced by the Liquidator, with respect to the present legal proceedings. I note that the Liquidator has submitted that vide order dated October 30, 2018, passed by the Hon'ble NCLT (Mumbai Bench), the Company has been ordered to be liquidated in the manner laid down in Chapter III of the IBC. In view of the above, the Liquidator, placing reliance on Section 33 of the IBC, has submitted that when a liquidation order has been passed, no suit or other legal proceedings shall be instituted by or against the corporate debtor (Noticee No.1). I note that the proceedings in the present case have been initiated under Section 11, 11(4) and 11B of the SEBI Act, 1992 which includes the power to issue directions to restrain the Noticee from accessing the securities market and prohibiting it from buying, selling or dealing in securities. Further, it also includes the power to issue other directions in the interest of investors. The prohibition under the IBC, as brought out above, is with respect to

pending suits or proceedings which are mainly in the nature of recovery of money from the corporate debtor that may further affect its financial position. In the present matter, I note that the SCN was issued to Rasoya with regard to the breach of securities laws including the issuance of GDRs to Vintage free of cost, through a fraudulent scheme. In light of the above, I am of the view that the bar under Section 33 of the IBC would not be applicable to the examination of the role of the Company in the issuance of GDRs to Vintage free of cost, through a fraudulent scheme. I also note that a Supplementary SCN was issued to Rasoya with respect to bringing the money back that had been utilised for payment of Vintage FZE's outstanding loan amount to EURAM Bank. With respect to the same, I am of the view that the amount from the Company's account utilised for the payment of Vintage's loan was legitimately due to the Company but because of the fraudulent scheme, was not available with the Company. In such a case, the prohibition under the IBC shall not apply to the extent that a direction to recover the GDR proceeds is not a claim against the Company.

5.10. Having examined the objection raised by the Liquidator, it would be relevant to place a chronology of the events associated with the GDR issue, so as to consider the allegations made in the SCN:-

- a. **October 04, 2010** – The Board of Directors of Rasoya passed a resolution whereby it resolved to open an account with EURAM Bank for the purpose of receiving subscription money in respect of the Company's GDR issue. The excerpts from the said Board Resolution are reproduced hereunder:

“RESOLVED THAT a bank account be opened with EURAM Bank (“the Bank”) or any branch of Euram Bank, including the Offshore Branch, outside India for the purpose of receiving subscription money in respect of the Global Depository Receipt issue of the Company.”

RESOLVED FURTHER THAT Shri Anil Lonkar Managing Director or Shri Prashant Duchakke Executive Director of the Company, be and are hereby severally authorized to sign, execute, any application, agreement, escrow agreement, document, undertaking, confirmation, declaration and other paper(s) from time to time, as may be required by the Bank and to carry and affix, Common Seal of the Company thereon, if and when so required.

RESOLVED FURTHER THAT the Bank be and is hereby authorized to use the funds so deposited in the aforesaid bank account as security in connection with loans if any as well as to enter into any Escrow Agreement or similar arrangements if and when so required.”

The GDR proceeds became the security for all the obligations of Vintage under the loan agreement.

- b. **February 14, 2011** – Vintage entered into a Loan Agreement with EURAM Bank bearing no. K140211-005 for availing a loan facility of USD 31,995,209.73 with respect to the subscription of GDRs issued by Rasoya.

- c. **February 15, 2011** – Rasoya entered into a Pledge Agreement with EURAM Bank, whereby the GDR proceeds received by the Company from Vintage was pledged as collateral for the loan availed by Vintage from EURAM Bank.
- d. **February 28, 2011** – In the Escrow Account maintained by Rasoya with EURAM Bank to receive the proceeds of the GDR issue, a deposit of USD 31,995,209.73 was made. The said amount had been deposited by Vintage for subscription of 100% of the GDR issue.
- e. **September 29, 2012** – A letter was issued by Rasoya to EURAM Bank with respect to the deposit account maintained by it. By way of the said letter, Rasoya confirmed that EURAM Bank had the right to set off the pledged cash deposit with the outstanding loan of Vintage amounting to USD 8,035, 209.73. By way of the said letter, it was further instructed by Rasoya that upon exercising its right to set off, the remaining GDRs being held in Deposit No. 5400121E of Vintage should be transferred to Account No. 20311-333-196205 in Habib Bank AG Zurich, which belonged to Vintage.

5.11. The above chronology brings out that there was a clear understanding between Rasoya and Vintage (which later became Alta Vista International FZE) to bring about this fraudulent scheme. In this regard, specific mention is made of the Loan Agreement entered into by Vintage with EURAM Bank for availing a loan facility of USD 31,995,209.73 on February 14, 2011. It is pertinent to note that the loan as per the said Loan Agreement was granted to Vintage on the pledge of the following assets : “ *Pledge of certain securities held from time to time in the Borrower’s account*

no 540012 at the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement. Pledge of the account no 580036 held with the Bank as set out in a separate pledge agreement which is attached hereto as Annex 2 and which forms an integral part of this Loan Agreement.” It is stated that the above reference to the pledge of Account No 580036 through a separate pledge agreement, which forms an integral part of the Loan Agreement, is to the Pledge Agreement dated February 15, 2011 entered between Rasoya and EURAM Bank. The same is borne out from the fact that the preamble of the Pledge Agreement states that “*By loan agreement K140211-005 (hereinafter referred to as the “Loan Agreement”) dated 15 February 2011, the Bank granted a loan (hereinafter referred to as the “Loan”) to Vintage FZE, AAH-213, Al Abamadi House, Jebel Ali Free Trade Zone, Jebel Ali, Dubai, United Arab Emirates (the “Borrower”) in the amount of USD 31,995,209.73. The Pledgor (Rasoya Proteins Limited) has received a copy of the Loan Agreement No. K140211-005 and acknowledges and agrees to its terms and conditions.*”

5.12. Further, the Pledge Agreement provides that the purpose of the pledge was “*...to secure any and all obligations, present and future, whether conditional or unconditional of the Borrower towards the Bank under the Loan Agreement and any and all respective amendments thereto and for any and all other current or future claims which the Bank may have against the Borrower in connection with the Loan Agreement...*” So, the purpose of the Pledge Agreement was to secure the obligations of the Borrower i.e., Vintage under the Loan Agreement. Also, the Pledge Agreement provides the circumstances in which EURAM Bank would invoke the Pledge. The said circumstances are:

“6.1 In the case that the Borrower fails to make payment on any due amount, or defaults in accordance with the Loan Agreement, the Pledgor herewith grants its express consent and the Bank is entitled to apply the funds in the Pledged Accounts to settle the Obligations. In such case the Bank shall transfer the funds on the Pledged Accounts, even repeatedly, to an account specified by the Bank.

6.2 Notwithstanding the foregoing, in the case that the Borrower fails to make payment of any due amount, or defaults in providing or increasing security, the Pledgor herewith grants its express consent and the Bank is entitled to realize the Pledged Securities (i) at a public auction for those items of Pledged Securities for which no market price is quoted or which are not listed on a recognized stock exchange or (ii) in a private sale pursuant to the provisions of Section 376 Austrian Commercial Code unless the Bank decides to exercise its rights through court proceedings. The Pledgor and the Bank agree to realize those items of the Pledged Securities for which a market price is quoted or which are listed on a stock exchange through sale by a broker public authorized for such transactions, selected by the Bank.

6.3 The Bank may realize the pledge rather than accepting payments from the Borrower after maturity of the claim if the Bank has reason to believe that the Borrower's payments may be contestable.”

5.13. Thus, from a conjoint reading of the above-mentioned terms of the Loan Agreement and the Pledge Agreement, it is quite clear that the pledging of the proceeds of the GDR issued by way of a Pledge Agreement to allow the said deposit account to be used as security for all the obligations of Vintage under the Loan Agreement, was a pre-condition for the grant of the loan to Vintage. The

simultaneous execution of both the Loan Agreement and the Pledge Agreement indicates that Rasoya was itself financing the subscription of its GDR issue. Once the loan facility was activated, an amount of USD 31,995,209.73 was received from Vintage on February 28, 2011 in the Escrow Account maintained by Rasoya in EURAM Bank for the receipt of GDR proceeds. However, as already mentioned, on September 29, 2012, a letter was issued by Rasoya to EURAM Bank confirming to EURAM Bank that it had the right to set off the pledged cash deposit with the outstanding loan of Vintage amounting to USD 8,035, 209.73. Further, by way of the said letter, Rasoya requested EURAM Bank that upon exercising its right to set off, all the remaining GDRs held in Deposit No. 540012 1E of Vintage, which would have otherwise reverted to Rasoya , were to be transferred to Account No. 20311-333-196205 of Vintage in Habib Bank AG Zurich. Consequent to the above, EURAM Bank invoked the Pledge Agreement and realised a total amount of USD 8,039,589.86 towards the loan of Vintage. This clearly establishes that the consideration received from Vintage, for the GDRs subscribed by it, was returned to Vintage, and as such, Vintage came to possess the GDRs without paying any consideration.

5.14.Further, reference is made to Table- 4 of this Order. It is seen from Table 4 that on 15 occasions payments were made by Vintage to EURAM towards the service of the loan availed by it. The details of the said payments are as under:

Table- 9

Sl. No.	Date	Amount (USD)
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1	27-Apr-11	10,00,000
2	06-May-11	10,00,000
3	03-Aug-11	8,00,000
4	08-Aug-11	40,00,000
5	09-Aug-11	10,00,000
6	10-Aug-11	23,00,000
7	12-Aug-11	10,00,000
8	29-Aug-11	10,00,000
9	31-Aug-11	8,00,000
10	22-Sep-11	7,00,000
11	14-Nov-11	19,00,000
12	06-Feb-12	12,75,000
13	08-Feb-12	47,00,000
14	17-Feb-12	20,00,000
15	23-Feb-12	4,85,000
Total		23,960,000

5.15. Similarly, it is also observed from Table -4 that a total amount of USD 24,124,000 was transferred from Rasoya's account to its wholly owned subsidiary, RITF, which was registered in the UAE. It is seen that on 16 occasions payments were made by Rasoya to RITF. The details of the said payments are as under:

Table - 10

Sl. No	Date	Amount (USD)
1	28-Apr-11	9,99,707
2	07-May-11	9,99,704
3	04-Aug-11	7,99,716
4	09-Aug-11	39,99,715
5	10-Aug-11	9,99,715
6	11-Aug-11	22,99,715
7	13-Aug-11	9,99,717

8	23-Aug-11	1,24,712
9	03-Sep-11	7,99,712
10	03-Sep-11	10,19,710
11	24-Sep-11	6,99,731
12	16-Nov-11	18,99,727
13	07-Feb-12	12,93,737
14	11-Feb-12	46,99,734
15	18-Feb-12	19,99,740
16	25-Feb-12	4,84,735
Total		24,119,527

5.16. On a comparison of the above two tables, some clear patterns emerge: a) payments by Vintage to EURAM Bank are followed, almost concurrently, by payments from Rasoya's account to RITF's account; and b) the amounts transferred from Rasoya's account to RITF's account are only a few dollars short of or more than the amount transferred by Vintage to EURAM Bank. It has also been brought out in the SCN that the funds transferred to RITF's account by Rasoya were in turn transferred to entities connected to Vintage. The details of the said entities and their connection to Vintage are provided hereunder:

Table - 11

Name of the fund recipient	Amount in USD	Connection of recipient with Vintage
AL Shamsi Holding FZC	10,130,840	Bank transactions observed with Vintage (ADCB Bank, Mashreq Bank and RAK Bank).
Atiqe Al Aqadi LLC	5,349,075	One of the investors in India Focus Cardinal Fund. Bank transactions observed with Vintage (ADCB Bank and RAK Bank). Common signatory for Atiqe Al Aqadi Trading LLC and Ali Alharthi General Trading (which also had bank transaction

Name of the fund recipient	Amount in USD	Connection of recipient with Vintage
		with Vintage) is one Ms. Kristine Joy Discutido (worked with Vintage, HBS and connected to Mr. Mukesh Chauradiya).
Al Chemy International FZC	2,650,000	Received USD 250,000 from Farmax International FZE, a subsidiary of another Indian Listed Company Farmax International Limited that issued GDRs to Vintage.
Ababil Star General Trading LLC	2,400,000	Bank transactions observed with Vintage (ADCB Bank, Mashreq Bank and RAK Bank).
Lider FZE	1,978,890	Bank transactions observed with Ababil Star General Trading LLC which had bank transactions with Vintage (ADCB Bank, Mashreq Bank and RAK Bank).
K Sera Sera Productions FZE	1,080,750	Bank transactions observed with Vintage (ADCB Bank and Mashreq Bank). Also, banking transactions with Lider FZE and UAE subsidiary of various Indian Issuers whose GDR issues were managed by Vintage.
Seazun Ltd	428,755	Bank transactions observed with Ababil Star General Trading LLC which had bank transactions with Vintage (ADCB Bank, Mashreq Bank and RAK Bank). Also, Seazun had entered into a pledge agreement with IKF Technologies Ltd and Rana Sugars Ltd for GDR issues of respective companies for which Pan Asia was the lead manager
Citigate Trade FZE	95,780	Bank transactions observed with Vintage (ADCB Bank, Mashreq Bank and RAK Bank)
Grand Total	24,114,090	

5.17. Further, it has been brought out during the investigation that in the Annual Report ending March 2015 of RITF, it was mentioned that the management and control of the said company was vested with the Manager, Jovena Suana (a Philippines national). Jovena Suana, as per her LinkedIn profile (accessed in September, 2017),

was employed with RITF, and based on the experience detailed by her on the LinkedIn profile, it was seen that her role was limited to administrative activities (receptionist/ administrative and clerical support/ travel arrangements / schedule meetings/ operating photocopy machine and scanner/ electronic and hard copy filing etc.). She did not hold any managerial position. It is noted from her LinkedIn profile that she worked with RITF as an “Office Administrator/ Executive Assistant” from July, 2011 and was continuing to work there on the day her profile was visited i.e., September 7, 2017. Contrary to the details provided by her on her LinkedIn profile, it was seen from the pictures and posts posted by her on Facebook (accessed in September, 2017) that she worked with Vintage. In one of the pictures posted on Facebook, the board of Vintage is visible in the background and she appears to be working as a receptionist. Also, as per another picture and various posts from her Facebook profile, it was seen that Jovena Suana and Kristine Joy Discutido (connected to Vintage) appear to be colleagues and working in the same office of Vintage. It is noted that the pictures and posts of her on Facebook relate to the period— March, 2012 to October 2013. This is the period in which she was supposedly working for RITF.

5.18. On the basis of the above details, it is seen that Rasoya created a subsidiary, RITF which was a front for circulating the GDR proceeds back to Vintage. So, a clear picture emerges that the loan repayment of USD 23.96 Million by Vintage was reimbursed by Rasoya by transferring USD 24 million to RITF, and thereafter to the above-mentioned eight entities connected to Vintage. Therefore, I find that the

funds transferred by Rasoya were utilised for repayment of loan of USD 23.96 Million by Vintage, and as such, all the GDRs were issued free of cost to Vintage (USD 8.04 + 23.96 Million = USD 32 Million).

5.19. Thus, Rasoya in connivance with Vintage devised a fraudulent scheme whereby Vintage received GDRs without paying any consideration for the GDRs, at the cost of shareholders / investors of Rasoya. Accordingly, I find that Rasoya and Vintage have clearly violated Section 12A (a), 12A(b), 12A(c) of SEBI Act 1992 read with Regulations 3 (a), (b), (c), (d) and 4(1) of SEBI (PFUTP) Regulations, 2003.

5.20. Additionally, it has been alleged that Rasoya had made wrong disclosures to the stock exchanges regarding the investment in GDRs by foreign investors. As already brought out, the Loan Agreement had reference to the Pledge Agreement entered into between Rasoya and EURAM Bank by virtue of which EURAM Bank provided credit facility to Vintage for the purpose of subscribing to the GDRs of Rasoya. So, the GDR issue would not have been subscribed in its entirety had the Company not given security towards the loan taken by Vintage through the Loan Agreement. These should have been reported to the Stock Exchanges. However, the Company reported to the stock exchange (BSE) on August 13, 2010 that “...*the Board of Directors of the Company at its meeting held on August 12, 2010, has approved the following:*

1. To raise finds (sic) up to US\$ 50 Million by way of issue of shares through Foreign Currency Convertible Bonds (FCCB)/Global Depository Receipts (GDRs)/American Depository

Receipts (ADRs)/ Secured Premium Notes (SPN)...”. Further, the Company on March 01, 2011 disclosed to BSE that its Board of Directors at its meeting held on March 01, 2011 transacted the business of closure of GDR issue and allotment of 2,08,91,420 equity shares representing 10,44,571 GDRs. The Company making a corporate announcement that the Company had approved the allotment of 2,08,91,420 equity shares representing 10,44,571 GDRs, without disclosing the pledge/loan arrangement that it had with regard to the subscription of its GDR issue, might have made the investors believe that the said GDR issue was genuinely subscribed. Further, as already stated above, Rasoya by way of a letter dated September 29, 2012 confirmed the right of EURAM Bank to set off the cash lying in Rasoya’s account with the outstanding loan of Vintage amounting to USD 8,035, 209.73. However, the corporate announcements made by Rasoya during the period did not mention the above two events. Therefore, the publication/disclosure of information by the Company with respect to the GDR issue was misleading and contained distorted information which induced investors to deal in the shares of Rasoya. Accordingly, I find that Rasoya has violated Regulation 4(2) (f), (k) and (r) of SEBI (PFUTP) Regulations, 2003.

Issue II. Whether the Directors of Rasoya and Vintage can be held liable for the fraudulent scheme?

A. Directors of Rasoya

5.21. The Annual Report of the Company for the financial year 2010-11 states that during the said period Anil N. Lonkar, Prashant G. Duchakke, Ajay K. Singh and Sameer Y. Damle were part of the Board of Directors. The details of the directors of the Company are provided hereunder :

Table - 12

Sl. No.	Name	Designation
1.	Anil N. Lonkar	Chairman & Managing Director
2.	Prashant G. Duchakke	Executive Director
3.	Ajay K. Singh	Executive Director
4.	Sameer Y. Damle	Executive Director

5.22. It is seen from the above table that directors of Rasoya who have been made Noticees in the present matter are all executive directors. It is further seen from the said Annual Report that 8 (Eight) Board meetings were held during the financial year 2010-11. The dates on which the meetings were held are May 14, 2010; August 03, 2010; August 12, 2010; November 01, 2010; November 03, 2010; February 01, 2011; February 22, 2011 and March 01, 2011. The details regarding the attendance of the above-named directors in the board meetings of the Company are provided hereunder :

Table -13

Name of Directors	Category of Directors	No. of Board Meetings attended during 2010-11	Attended last AGM held on June 30, 2010
Anil N. Lonkar	Executive	7	Yes

Prashant G. Duchakke	Executive	6	Yes
Ajay K. Singh	Executive	6	Yes
Sameer Y. Damle	Executive	6	No

5.23. In this regard, it has been inter alia submitted by the above-mentioned Noticees that—

- a. the said Noticees were not aware of the Loan Agreement and had no role to play in the execution of the said agreement;
- b. Prashant Duchakke had never signed the Pledge Agreement, which is seen to have been signed in Austria and he had not travelled to Austria neither on February 15, 2011, nor any time before or after that, and the same can be seen from his passport;
- c. the directors passed the Board Resolution dated 4th October, 2010 to provide security for loan taken by the Company for its own business purpose only; and
- d. the Company was provided with only one list by PAN Asia, which consisted of 8 subscribers, and these investors were from various countries and not Vintage, and
- e. PAN Asia being the lead manager had full control over the details of the subscribers and the list was provided to the Company by them.

5.24. During the investigation period, as seen from the Annual Report, Anil N. Lonkar was the Chairman and Managing Director of the Company. By way of the Board

Resolution passed at the Board Meeting held on October 04, 2010, Anil Lonkar and Prashant G. Duchakke were authorised to sign, execute any application, agreement, escrow agreement, document, undertaking etc. as may be required by the Bank, i.e. EURAM Bank. By way of the said Board Resolution, the above-named directors were also authorised to draw cheques and generally to take all such steps and do all such things as may be required from time to time on behalf of the Company.

5.25. The Noticees have asserted that they were not aware of the Loan Agreement and that Prashant Duchakke had not travelled to Austria to sign the Pledge Agreement. Reference is made to the letter dated September 29, 2012 issued by Rasoya to EURAM Bank. By way of the said letter, it was confirmed by Rasoya that “ the pledge agreement entered into by and between Rasoya Proteins Ltd. and European American Investment Bank AG is valid and was duly signed by Rasoya Proteins Ltd.” (emphasis supplied) The letter further states that “ *we confirm the right of European American Investment Bank to set off the pledged cash deposit with the outstanding loan amount 8,035,209.73*”. It is noted that the said letter, addressed by Rasoya to EURAM Bank, was signed by Prashant Duchakke and was notarised by a registered Notary. Further, the Pledge Agreement has been signed by Prashant Duchakke on behalf of Rasoya and is annexed with a copy of his passport with the verification that it was a copy of the original. Such verification is usually done to ensure that the person signing an agreement is in fact the same person that he claims to be. Another argument advanced by the Noticees is that Prashant Duchakke had not travelled

to Austria to sign the Pledge Agreement. The Pledge Agreement nowhere mentions that it was executed in Austria. So, there was no requirement for Prashant Duchakke to travel to Austria to sign the said agreement. The above details clearly belie the assertion of the Noticees that they had not entered into a Pledge Agreement with EURAM Bank and were not aware of it. It is quite clear that the Company and its directors were aware of the Pledge Agreement having executed the same on February 15, 2011.

5.26. The said Noticees have also claimed that they were not aware of the Loan Agreement entered into between Vintage and EURAM Bank and the Loan Agreement could not be considered as an integral part of the Pledge Agreement. It has already been established above that the said Noticees had clear knowledge of the Pledge Agreement having entered into the same with EURAM Bank on February 14, 2011. The Pledge Agreement in its preamble mentions that “ *The Pledgor has received a copy of the Loan Agreement No K140211-005 and acknowledges and agrees to its terms and conditions.*” Loan Agreement No K140211-005 is the same loan agreement entered into between Vintage and EURAM Bank dated February 14, 2010 for a loan amount of USD 31,995,209.73 with the purpose of “*enabling Vintage FZE to take down GDR issue of 1,044,571 Luxembourg public offering and may only be transferred to Euram account nr. 580036, Rasoya Proteins Ltd.*” So, it cannot be said that the above-mentioned Noticees were not aware of the Loan Agreement.

5.27. The above-mentioned Noticees have also asserted that they had no knowledge that Vintage was the sole subscriber of the GDRs, and it was PAN Asia Advisors,

the lead manager who had the full details. In this regard, it has already been established that a copy of the Loan Agreement, wherein it was mentioned that a loan of USD 31,995,209.73 was being given to Vintage so as to enable it to subscribe to 1,044,571 GDRs of Rasoya, was provided to Rasoya. Also, the issue size of the GDR issue was 10,44,571 GDRs amounting to USD 31.995 million. The bank account maintained by Rasoya with EURAM Bank shows a credit entry of transfer of USD 31,995,209.73 on February 28, 2011, which was from Vintage. Further, in the letter dated September 29, 2012 addressed by Rasoya to EURAM Bank (signed by Prashant Duchakke), it has been stated by Rasoya that “*We, Rasoya Proteins Ltd., were informed by Alta Vista International FZE (formerly known as Vintage) of your letter dated 26th march 2012 and 11th April 2012 that the loan in the amount of USD 8,035,209.73 is due and that the loan has to be repaid within 10 days, otherwise the pledged cash deposit will be set off with the outstanding loan amount plus any outstanding interest.*” Further, it is noted that by way of the letter dated September 29, 2012 referred to above, EURAM Bank was instructed that upon exercising its right to set off, the GDRs pledged by Vintage which would have come to Rasoya, should be transferred to Vintage’s account in Habib Bank AG Zurich. So, it is quite evident that the above-mentioned Noticees were clearly aware of the Vintage and that it was the sole subscriber of the GDR issue.

5.28. With respect to the Board Resolution passed at the Board Meeting on October 04, 2010, it is seen from the record that the contents of the said Board Resolution have been attested to by Sameer Damle and Ajay Singh, Noticee Nos. 3 and 4. The same

has also been notarised by a registered Notary. The above-mentioned Noticees have not disputed that such a Board Resolution was passed at the Board Meeting held on October 04, 2010. In this regard, reference is made to the Corporate Governance section in the Annual Report filed by the Company for the financial year 2010-2011 under the signature of Anil Lonkar, Chairman and Managing Director. The said section states that there were a total of eight board meetings held by the Company during the financial year 2010-2011. Curiously, no mention is made of the Board meeting held on October 04, 2010, even though it is the meeting where the decision to come out with the GDR issue was crystallised. The fact that a very important board meeting of the Company has not been mentioned in the Annual Report clearly points to the attempt of the Executive Directors, who were involved in the day-to-day activities, of keeping the shareholders and the general public in the dark regarding the actions of the Company.

5.29. Lastly, the said Noticees have contended that in the case of Den Networks Limited, where the allegation was that the IPO was subscribed without receipt of funds, SEBI did not pass an ad-interim ex-parte order and settled the matter after payment of consent fee, a similar approach should have been followed in the present matter and an ad-interim ex-parte order should not have been passed. It is stated that an ad-interim ex-parte order is passed only after the appreciation of multiple factors viz., the nature of the violation, the gravity of the alleged violation, the impact of such violations on the market, the ability of the alleged violators to commit further breach of securities law, etc. So, the interim order in the present

matter was upon a consideration of the peculiar facts of the case and, as such, it cannot be compared to any other matter where a different conclusion was reached due to its own peculiar facts. Furthermore, it has also been contended by the present Noticees that for fraud to be established, it has to be shown that the Noticees were guilty of inducement. In this regard, it is stated that the concept of fraud as contained in PFUTP is a multi-layered concept and captures various acts within its fold. Inducement is merely a part of that definition.

5.30. Thus, on the basis of the information and documents available on record, I find that Anil N. Lonkar, Prashant G. Duchakke, Ajay K. Singh and Sameer Y. Damle were actively involved in the day-to-day activities of the Company, and had full knowledge of the activities of Company during the process of issuance of GDRs. Thus, the facts show that the executive directors of the Company, namely, Anil N. Lonkar (Noticee No. 2), Sameer Y. Damle (Noticee No. 3), Ajay K. Singh (Noticee No. 4) and Prashant G. Duchakke (Noticee No. 5) have violated the provisions of Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 read with Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

B. Directors of Vintage

Arun Panchariya

5.31. Arun Panchariya in his submissions/replies submitted to SEBI has refuted the allegations made in the SCN. The same have been captured in the previous part of this order, and accordingly are not being reproduced here. It shall, however, be

relevant to briefly mention herein the principal grounds of defence taken by the said Noticee in respect of the allegations made in the SCN –

5.32. the principal grounds of defence taken by the said Noticee in respect of the allegations made in the SCN –

- a. SEBI does not have the jurisdiction to initiate action against natural persons resident outside India;
- b. other companies have come out with GDR issues which followed the market practices allegedly now found to be illegitimate by SEBI;
- c. the Noticee was a director in Vintage FZE only till 2007; and
- d. decisions of Vintage FZE including Loan default was taken on the circumstances in the best interest of the Company by its management.
- e. SEBI has passed various orders in which no action has been taken against the investors like Clifford Partners, Solec company limited, Seviron company limited, Fusion Investment Ltd etc., so placing reliance on the doctrine of “issue estoppel”, the Noticee must be granted similar relief.

5.33. The question of jurisdiction of SEBI has already been dealt with in the previous part of this Order. As regards the defence of issue estoppel raised by the said Noticee, it is stated that the same has been dealt with in a detailed manner in the subsequent paragraphs of the Order. Proceeding with the merits of the matter, reliance is placed on a loan agreement dated May 30, 2008 entered into by Vintage with EURAM Bank. The said agreement has been signed by Arun Panchariya and

in the space for “Title”, MD has been mentioned. So, it clearly belies the claim of the Noticee that he was a director in Vintage FZE only till 2007. It is seen from a letter dated December 28, 2010, issued by the Jebel Ali Free Zone Authority, that Vintage was a Free Zone Establishment and its sole shareholder was Alkarni Holding Ltd. Further, it is seen from a Certificate of Incumbency of Alkarni Holding Ltd. dated April 21, 2014, issued by the Overseas Management Company Trust (BVI) Ltd., that the only shareholder in the said company was Arun Panchariya, who held 50,000 shares. Arun Panchariya was also the sole director of the said company. Also, reference is made to the Administrative Fine Statement passed by the Dubai Financial Services Authority against Arun Panchariya, by way of which, a fine of USD 12,000 was imposed on him. The said Administrative Fine Statement notes that on February 19, 2009 Arun Panchariya had disclosed that he was controller/director/partner in three firms, including Vintage FZE. So, it is clear that the sole beneficial owner of Vintage was Arun Panchariya, who held complete shareholding of Vintage through Alkarni Holding Ltd. Furthermore, it is seen from the above-mentioned letter dated December 28, 2010, issued by the Jebel Ali Free Zone Authority, that the director of Vintage was Ashok Panchariya, who is the brother of Arun Panchariya.

5.34. Thus, from the above, it is concluded that during the period when the process for issue of GDRs was initiated and the announcement of allotment of GDRs was done i.e., October 2010 to February, 2011, Arun Panchariya was the sole beneficial owner of Vintage and had a controlling position in it. Also, during this period

Ashok Panchariya, who is the brother of Arun Panchariya was the director of Vintage. Thus, I find that Arun Panchariya was involved in the running of the business during the process of issuance of GDRs, held a controlling position in Vintage and being the sole beneficial owner had benefitted from the illegal scheme. Accordingly, I find that Arun Panchariya has violated Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 r /w Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

Mukesh Chauradiya

5.35.It has been alleged in the SCN that Mukesh Chauradiya served as Managing Director and director of Vintage.

5.36.Mukesh Chauradiya in his submissions/replies submitted to SEBI has refuted the allegations made in the SCN. The same have been captured in the previous part of this order, and accordingly are not being reproduced here. It shall, however, be relevant to briefly mention herein the principal grounds of defence taken by the said Noticee in respect of the allegations made in the SCN –

- a. he has never been the Director or Managing Director of Vintage FZE, and he only held the position of Manager;
- b. the decisions to subscribe to the GDRs and obtain loan from Euram Bank for subscribing to the GDRs was taken by Arun Panchariya and the Noticee, had no role to play in it; and

- c. the Noticee did not gain any other advantage, monetary or otherwise for any of the acts done by him as an employee of Vintage FZE, working under Arun Panchariya.

5.37. In this regard, reference is made to the Loan Agreement entered into by Vintage with EURAM Bank. The said agreement has been signed by Mukesh Chauradiya on behalf of Vintage, and in the space for providing the “Title” of the signatory, Managing Director has been mentioned. Further, I note that the letter dated December 30, 2010 addressed by Vintage to EURAM Bank, has been signed by Mukesh Chauradiya, suffixing Director to his name. It is relevant to note that by way of the said letter, it has been represented to EURAM Bank that “*Mr. Mukesh Chauradiya, Managing Director of the company, has successfully completed the Training Program of DGCX in 2005.*” In addition to the above references, a letter dated December 28, 2010, issued by the Jebel Ali Free Zone Authority, shows Mukesh Chaurdiaya as a Manager of Vintage and not the director. Also, the UAE Residence Permits submitted by the Noticee show his profession during the period September 14, 2008 to September 13, 2014 as General Manager. Further, the Employment Card for entry into the Jebel Ali Free Zone mention his occupation as General Manager.

5.38. It is seen from the letter dated December 30, 2010 addressed to EURAM Bank and the Loan Agreement dated March 22, 2011 that the Noticee has represented himself to be the Managing Director/Director of Vintage. Having represented himself as being the Managing Director/Director of Vintage, the Noticee cannot

seek relief from the consequences of such representation by asserting that he was merely an employee.

5.39. In this regard I note that a similar contention had been raised by Mukesh Chauradiya before the Hon'ble SAT in ***Mukesh Chauradiya vs. SEBI*** (Date of Decision: January 7, 2021 Appeal No. 260 of 2020) wherein it was argued that he was never a managing director of Vintage FZE; he was initially only a Manager and later on a General Manager. It was contended that he was never a beneficial owner of the Company Vintage FZE and he has never benefited anything in the alleged violation as he was only a salaried employee of Vintage FZE. In the matter, the Hon'ble SAT held as follows:

“It is an undisputed fact that the appellant has signed as Managing Director as we also note at page 94 of the Memo of appeal. It is not that he signed “for managing director” or “on behalf of managing director” etc. Therefore, irrespective of the dispute relating to the designation as contended by the appellant, the appellant was undoubtedly having the power to sign as managing director. In the certificate given by the JAFZA only 3 names [and 4 designations, with the sole Director, being named as the Secretary also] are indicated who are responsible people in Vintage FZE and appellant was one of them. Therefore, the dispute as to what was the exact designation of the appellant is irrelevant in the context that admittedly the appellant signed as Managing Director of Vintage FZE. It is also important to clarify here that using a designation in other jurisdictions, such as UAE in the instant case, or elsewhere, for comparison to similar designations in India is also not

relevant because designations vary widely even with respect to similarly placed officials across multiple jurisdictions. What is relevant is only whether the appellant was holding a position in which he could put his signature, that too in a loan agreement for USD 13.24 million with a bank under the designation of Managing Director. In any case designation of a person and whether a person is “an officer in default” in an organization etc are irrelevant when the charge is that of aiding and abetting fraud under the PFUTP Regulations, which is the case herein.

5.40. So, as held by the Hon’ble SAT, the exact designation of the present Noticee is not relevant. What is relevant is whether the Noticee was holding a position in which he could put his signature in the Loan Agreement with EURAM Bank under the designation of Managing Director. From the facts of the case, it clearly appears that the appellant was holding a position by way of which he could execute binding agreements on behalf of Vintage. Thus, the present circumstances indicate that Mukesh Chauradiya was playing an important role in the affairs of Vintage during the relevant period. Accordingly, I find that Mukesh Chauradiya has violated Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 read with Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

III. Whether the Lead Manager to the Issue, Pan Asia Advisors Ltd. (Noticee No.8) acted as a party to the fraudulent scheme?

5.41. Pan Asia Advisors Ltd. (“**Pan Asia**”), a UK based entity, was the Lead Manager for the GDR issue of Rasoya. It has been alleged in the SCN that Arun Panchariya

was the director and beneficial owner of Pan Asia and as the Lead Manager, Pan Asia had handled the GDR issue of Rasoya. No replies/submissions have been received from Pan Asia.

5.42. It is seen from the records that the Noticee was registered as a private limited company with the Registrar of Companies for England and Wales on April 24, 2006. It is also seen that the name of the said Noticee has been changed from Pan Asia Advisors Ltd. to Global Finance and Capital Limited on February 08, 2013. Further, it is seen from the information, as received from the Financial Conduct Authority, UK, that Arun Panchariya was the director of Pan Asia from August 30, 2006 to September 29, 2011. Also, between July 01, 2008 and January 20, 2012, Arun Panchariya was the sole shareholder holding 100 % of the total shareholding. So, during the period when the process for issue of GDRs was initiated and the announcement of allotment of GDRs was done i.e., during October 2010 to February, 2011, Arun Panchariya was a director and had a controlling stake in Pan Asia.

5.43. In this respect, reference is also made to the letter dated February 20, 2012 of Pan Asia addressed to SEBI. By way of the said letter, Pan Asia has provided a summary of the various steps involved in the consummation of a GDR issue, right from the initiation of the issue till the closing of the issue. Pan Asia, as part of the letter, has also provided a list of activities that it is usually required to carry out as the Lead Manager which is given hereunder:

“ 1) *Signing the mandate with the Client (i.e. Indian Listed Company).*

2) *Conducting the due diligence that includes documentary evidences as well as a check on the premises owned by the company.*

5) *Then lead manager (PAA) enters into a tri-party Escrow Agreement wherein the parties are the (a) Issuer Company, (b) Lead manager (Pan Asia) and (c) Escrow Agent appointed by the company.*

6) *PAA introduces all the parties to each other by circulating a Working Group List.*

7) *PAA presents the project report of the Issuer Company along with the Offer document to the investor(s). This process runs simultaneously along with the progress on the working group co-ordination in terms of documentation for the listing.*

10) *As per the opening/closing schedule of the transaction- PAA obtains confirmation from Escrow Agent that the subscription money from the Investors is in place, on the day that is the last day for receipt of the subscription from investors.*

11) *On the closing day/allotment day, PAA closely monitors the documentation that is required by/from each & every working group member for the successful closure of the transaction. ”*

5.44. The above explanation of Pan Asia about its role in GDR issues, along with the confirmation received from the Financial Conduct Authority, UK, that Arun Panchariya was its director from August 30, 2006 to September 29, 2011, brings out the fact that Pan Asia was well aware of the entire scheme underlying the GDR issue of Rasoya. As seen from the sequence of events in the matter, the fraudulent

scheme was devised by Arun Panchariya using all his connected entities to enact various roles in the GDR issue, including Pan Asia as the Lead Manager.

5.45. Further, reference is drawn to Order dated October 25, 2016 of the Hon'ble SAT in *Pan Asia Advisors Limited V. SEBI* in Appeal No. 126 of 2013. The Hon'ble SAT while considering the role of the lead manager i.e., Pan Asia Advisors Limited and its Managing Director, Arun Panchariya, with respect to the GDR issue of Asahi Infrastructure & Projects Ltd., which is similar to the present matter, has held,

“...instead of ensuring that the foreign investors subscribe to the GDRs of Asahi, AP as Managing Director of PAN Asia planned to subscribe to the GDRs of Asahi through Vintage and in fact as Managing Director of Vintage took loan of 5.98 Million USD from Euram Bank for subscribing to the GDRs of Asahi and made Asahi to pledge to the Euram Bank the GDR subscription amount of 5.98 Million USD as security for the loan taken by Vintage. Similar modus operandi was adopted in case of other issuer companies. Thus, the investors in India were made to believe that in the global market the issuer companies have acquired high reputation in terms of investment potential and hence the foreign investors have fully subscribed to the GDRs, when in fact, the GDRs were subscribed by AP through Vintage which was wholly owned by AP. In other words, PAN Asia as a Lead Manager and AP as Managing Director of PAN Asia attempted to mislead the investors in India that the GDRs have been subscribed by foreign investors when in fact the GDRs were subscribed by AP through Vintage. Any attempt to mislead the investors in India constitutes fraud on the investors under the PFUTP Regulations...”

5.46. Accordingly, I find that Noticee No. 9, namely, Pan Asia being an Arun Panchariya owned and controlled entity, acted as a party to the fraudulent scheme, and as such has violated Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 read with Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

Issue – IV: Whether India Focus Cardinal Fund (Noticee No. 10) and Highblue Sky Emerging Market Fund (Noticee No. 11) Leman Diversified Fund (Noticee No. 12) and Aspire Emerging Fund (Noticee No. 13), and the FIIs, Cardinal Capital Partners (Noticee No. 14), EURAM Bank (Noticee No. 15), Golden Cliff (Noticee No. 16) and KBC Aldini Capital Ltd. (Noticee No. 17) have acted in pursuance of the fraudulent scheme?

5.47. It has been alleged in the SCN that India Focus Cardinal Fund, Highblue Sky Emerging Market Fund, Leman Diversified Fund and Aspire Emerging Fund by selling the equity shares of Rasoya in the Indian Securities Market acted as conduit to Arun Panchariya and his connected entities, which were acquired by Vintage free of cost through the fraudulent scheme.

5.48. It has been further alleged in the SCN that EURAM Bank, Cardinal Capital Partners, Golden Cliff and KBC Aldini Capital Ltd. got registered as FIIs only to facilitate their sub-accounts to sell the converted shares of Rasoya in the Indian securities market.

5.49. In this regard, the summary of the registration of FIIs and sub-accounts is tabulated below:

Table- 14

Sl. No.	Name of sub a/c	Date of registration of sub a/c	Registration end date of sub a/c	Name of FII under which sub a/c is registered	Date of registration of FII	Registration end date of FII
1	India Focus Cardinal Fund	12/12/2008	19/07/2011	European American Investment Bank AG	21/11/2008	20/11/2011
		20/07/2011	19/06/2017	Cardinal Capital partners	20/06/2011	19/06/2017
2	Highblue Sky Emerging Market Fund [previously known as KBC Adini Capital (Mauritius) Ltd.]	18/06/2010	21/10/2012	KBC Aldini Capital Limited	22/03/2010	21/03/2016
		22/10/2012	28/02/2017	Golden Cliff (previously known as Vaibhav Investments Limited)	01/03/2011	28/02/2017
3	Aspire Emerging Fund	14/06/2013	28/02/2017			
4	Leman Diversified Fund	17/05/2012	03/01/2017	ARCSTONE CAPITAL LIMITED	04/01/2011	03/01/2017

5.50. The liability of the above-named Noticees is being taken up for consideration in five parts: a) joint role of India Focus Cardinal Fund and Cardinal Capital Partners; b) role of EURAM Bank c) joint role of Highblue Sky Emerging Market Fund, Golden Cliff and KBC Aldini Capital Limited; d) role of Aspire Emerging Fund; and e) role of Leman Diversified Fund.

India Focus Cardinal Fund and Cardinal Capital Partner

5.51. In response to the allegations made in the SCN, India Focus Cardinal Fund has not filed any replies/submissions with SEBI.

5.52. A summary of the shares received by India Focus Cardinal Fund upon conversion of GDRs and the sale of those shares is provided hereunder:

Table - 15

Date	Shares received on GDR cancellations	No. of shares sold	Running balance of shares	Trade Value in INR
08-Apr-11	11,00,000		11,00,000	
27-Apr-11		5,00,000	6,00,000	7,25,00,079
28-Apr-11	3,82,000		9,82,000	
29-Apr-11	73,000		10,55,000	
09-May-11		1,00,000	9,55,000	1,64,00,000
10-May-11		4,50,000	5,05,000	7,42,51,133
11-May-11	6,00,000		11,05,000	
23-Jun-11	11,05,000		22,10,000	Face value split from Rs.10 to Rs.5
07-Sep-11		1,00,000	21,10,000	71,00,000
08-Sep-11		3,75,000	17,35,000	2,71,46,250
12-Sep-11	8,80,000		26,15,000	
12-Sep-11		1,40,000	24,75,000	1,00,31,000
13-Sep-11		3,42,239	21,32,761	2,46,41,208
14-Sep-11		1,50,000	19,82,761	1,07,25,000
20-Sep-11		2,50,000	17,32,761	1,93,50,000
09-Oct-12		11,50,000	5,82,761	5,87,22,500
15-Oct-12		1,00,000	4,82,761	63,05,000
29-Oct-12		4,00,000	82,761	3,64,05,404
06-Dec-12		82,761	-	74,48,490
	41,40,000	41,40,000		
Total				37,10,26,064

5.53. It is seen from the above table that India Focus Cardinal Fund received 41,40,000 equity shares of Rasoya upon conversion of GDRs of Rasoya. It is also seen from the above table that all the 41,40,000 equity shares received by India Focus Cardinal Fund were then sold by it in the Indian capital market between April 27, 2011 and December 06, 2012 for a total value of Rs. 37,10,26, 064. The shares sold by the sub-account, India Focus Cardinal Fund were done through the FIIs, Cardinal Capital Partners and EURAM Bank.

5.54. In this regard, reference is made to the letter dated September 15, 2016 addressed by the Financial Services Commission, Mauritius to SEBI. By way of the said letter, it has been informed that in respect of India Focus Cardinal Fund, Cardinal Capital Partners Ltd. was the management shareholder since August 22, 2008, and Arun Panchariya was the beneficial owner. Further, reliance is placed on letter dated April 02, 2012 addressed by India Focus Cardinal Fund to SEBI. In the said letter, it has been disclosed by the Noticee that for the period January 01, 2009 to May 31, 2010, the complete shareholding of Cardinal Capital Partners was held by Arun Panchariya.

5.55. From the above, it is seen that complete shareholding in India Focus Cardinal was held by Cardinal Capital Partners Ltd., and in turn the complete shareholding in Cardinal Capital Partners Ltd. was held by Arun Panchariya. So, both India Focus Cardinal Fund and Cardinal Capital Partners Ltd. were controlled by Arun Panchariya during the period of the sale of converted equity shares in the Indian securities market.

5.56. In the present proceedings, the allegation is that Cardinal Capital Partners Ltd., a registered FII facilitated India Focus Cardinal Fund, its sub-account to sell the illegally acquired shares in the Indian securities market. It has already been established that Vintage, an Arun Panchariya entity, fraudulently subscribed to the GDRs of Rasoya. It has also been brought out above that India Focus Cardinal Fund (which came to possess the GDRs and converted them into equity shares) and Cardinal Capital Partners Ltd. were both owned and controlled by Arun Panchariya. In view of the same, I am convinced that Cardinal Capital Partners Ltd. worked as a conduit for Arun Panchariya by providing a vehicle to India Focus Cardinal Fund to sell the illegally acquired shares of Rasoya in the Indian securities market. Accordingly, I find that Cardinal Capital Partners Ltd. and India Focus Cardinal Fund have violated Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 read with Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

EURAM Bank

5.57. EURAM Bank in his submissions/replies submitted to SEBI has refuted the allegations made in the SCN. The essential grounds of defence taken by the said Noticee in respect of the allegations made in the SCN are provided hereunder –

- a. In earlier orders, covering essentially the same facts and addressing the same issues as in the present matter, Whole Time Member, SEBI has granted relief to EURAM Bank, so similar relief should be granted in the

present matter and the charges should be dropped on the basis of issue estoppel/cause of action estoppel;

- b. Euram Bank's association with Arun Panchariya was limited to the Dubai joint venture entity — EURAM Bank Asia Limited and he had no material role in EURAM Bank; and
- c. Euram Bank offered a bouquet of financial services, including providing a terminal to sub-accounts to make investments — the investments themselves were made directly by the clients.

5.58. The Noticee has specifically placed reliance on (i) ***Hope Plantation Ltd. v. Taluk Land Board, (1999) 5 SCC 590*** (ii) ***Vijayabai and Others v. Shriram Tukaram, and Others (1999) 1 SCC 693*** and (iii) ***Bhanu Kumar Jain v. Archana Kumar, (2005) 1 SCC 787*** to assert issue estoppel / cause of action estoppel. In respect of the assertion made by the Noticee, it would be relevant to examine the principle as laid down in the above-mentioned cases. The specific references made by the Noticee are as follows:

Hope Plantation Ltd. v. Taluk Land Board, (1999) 5 SCC 590

“When the proceedings have attained finality, parties are bound by the judgment and are estopped from questioning it. They cannot litigate again on the same cause of action nor can they litigate any issue which was necessary for decision in the earlier litigation. These two aspects are 'cause of action estoppel' and 'issue estoppel'. These two terms are of common law origin. Again, once an issue has been finally determined, parties cannot subsequently in the same suit advance arguments

or adduce further evidence directed to showing that issue was wrongly determined. Their only remedy is to approach the higher forum if available. The determination of the issue between the parties gives rise to as noted above, an issue estoppel. It operates in any subsequent proceedings in the same suit in which the issue had been determined. It also operated in subsequent suits between the same parties in which the same issue arises.”

“Legal principles of estoppel and res judicata are equally applicable in proceedings before administrative authorities as they are based on public policy and justice.”

Vijayabai and Others v. Shriram Tukaram, and Others (1999) 1 SCC 693 –

“It would be impermissible to permit any party to raise an issue, inter se, where such an issue under the very Act has been decided in an early proceeding. Even if res judicata in its strict sense may not apply but its principle would be applicable. Parties who are disputing now, if they were parties in an early proceeding under this very Act raising the same issue, would be stopped from raising such an issue both on the principle of estoppel and constructive res judicata.”

Bhanu Kumar Jain v. Archana Kumar, (2005) 1 SCC 787–

Reliance has been placed by the Noticee on the undermentioned English cases, which were cited by the Hon'ble Supreme Court in the above-mentioned matter.

" In Thoday v. Thoday, 1964 (1) All ER 341, Lord Diplock held: "cause of action estoppel" is that which prevents a party to an action from asserting or denying, as against the other party, the existence of a particular cause of action, the non-existence or existence of which has been determined by a court of competent jurisdiction in previous litigation between the same parties. If the cause of action was determined to exist, i.e., judgment was given on it, it is said to be merged in the judgment. If it was determined not to exist, the unsuccessful plaintiff can no longer assert that it does: he is estopped per rem judicatam."

The said dicta was followed in Barber vs. Staffordshire Country Council, (1996) 2 All ER 748. A cause of action estoppel arises where in two different proceedings identical issues are raised, in which event, the latter proceedings between the same parties shall be dealt with similarly as was done in the previous proceedings. In such an event the bar is absolute in relation to all points decided save and except allegation of fraud and collusion."

5.59. At this juncture, I find it relevant to upfront clarify that the Order referred to by the Noticee, wherein EURAM Bank has been discharged of the allegations made in the SCN was purely based on the facts and circumstances as available on record. However, this does not entitle it to advance the ground of issue estoppel/ cause of action estoppel in relation to the present proceedings, in view of the difference in the factual matrix. In this regard, reliance is placed on the case of **Gopal Prasad Sinha vs. State of Bihar (1970) 2 SCC 905**, whereby the Supreme Court held that the fundamental principle underlying the rule of issue estoppel is that the same issues of fact and law should have been determined in the prior litigation. So, for the invocation of the principle of issue estoppel, the issues of fact and law in the

present matter, as they relate to the Noticee, should be the same as that determined in the Order referred to by the Noticee. It is seen that the SCN, from which the present proceedings emerge, has alleged that EURAM Bank facilitated India Focus Cardinal Fund to become its sub account and sell the converted shares of Rasoya in the Indian securities market. As regards SEBI's Order of September 05, 2017 bearing number SEBI/WTM/SR/EFD/64/09/2017, it is seen that the allegation in the said matters pertained to the facilitation of EURAM Bank for the sale of converted equity shares of Asahi Infrastructure & Projects Limited, Avon Corporation Limited, CAT Technologies Limited, IKF Technologies Limited, K Sera Sera Limited and Maars Software International Limited. So, it is evident that the facts in issue in the matters decided earlier were distinct from the facts in issue in the present matter. Thus, the principle of issue estoppel is inapplicable in the present proceedings.

5.60. The cause of action in both the matters have arisen from different sets of facts.

The case here is that the Noticee has adopted the same strategy with respect to different companies. To illustrate, the cause of action in the present matter emerges from the facilitation granted by EURAM Bank to India Focus Cardinal Fund to become its sub account and sell the converted shares of Rasoya in the Indian securities market. In contrast, the cause of action in the previous matters emerged from the facilitation granted by EURAM Bank for the sale of converted equity shares of Asahi Infrastructure & Projects Limited, Avon Corporation Limited, CAT Technologies Limited, IKF Technologies Limited, K Sera Sera Limited and

Maars Software International Limited. Thus, the principle of cause of action estoppel does not apply as contended.

5.61. Coming to the merits of the allegation made against EURAM Bank, which is that it facilitated India Focus Cardinal Fund to become its sub account and sell the converted shares of Rasoya in the Indian securities market; it has already been established in the previous part of this order that the issuance of GDRs to Vintage, an Arun Panchariya related entity, was illegal. It has also been established that India Focus Cardinal Fund was controlled and managed by Arun Panchariya. In view of the above, the fact that Arun Panchariya was a director in EURAM Bank Asia Ltd., which was a joint venture between EURAM Bank and Pan Asia Advisors Ltd., another Arun Panchariya entity becomes quite relevant. It has been stated by EURAM Bank that *“AP was never the director or had any material role in Euram Bank”*. However, I find that in the Pledge Agreement signed between Rasoya and EURAM Bank, a stamp mark reads, *“Signature verified Dir. AP”*. Another stamp mark on the said Pledge Agreement reads, *“ EURAM Bank Asia Ltd., Verified With Original , Name: Arun Panchariya, Date: 3rd April, 2011, Reg. No. 0868”*. It is quite clear that the arm’s length relationship between EURAM Bank Asia Ltd. and EURAM Bank, as asserted by the Noticee, was not existing or maintained in fact. There was certainly a relationship between EURAM Bank and Arun Panchariya which existed beyond EURAM Bank Asia Ltd. Further, it has been brought out that during the relevant period the sub-account availing the services of EURAM Bank as an FII happened to be an Arun Panchariya entity. In this regard, EURAM Bank has contended that

they provided a bouquet of services, which included the sub-account facility to clients, and that it was simply a business decision. I am not convinced with the defence that it had not done any facilitation but only extended services as part of its services. This is all the more evident from the fact that as an FII, EURAM did not make any direct investments in the Indian securities market, but was using its FII status to provide sub-account facilities to its clients to access the Indian securities market. Thus, it cannot be a simple business decision or coincidence that the entity availing the sub-account facility happens to be an entity managed and controlled by Arun Panchariya, at a time when EURAM Bank was in a joint venture with him and he was signing the agreements that were being entered into by EURAM Bank. There is a clear and evident nexus between EURAM Bank and Arun Panchariya.

5.62. In this regard, reference is made to the Hon'ble SAT's ***Order dated February 05, 2020 in Appeal No. 376 of 2019, Jindal Cotex Limited and Ors Vs. SEBI***, whereby the role of EURAM Bank has been acknowledged. The Hon'ble SAT has stated that –

“This Tribunal had passed a number of orders relating to manipulations and fraudulent behavior from the part of a few companies and several connected entities including Vintage. EURAM Bank has also been one of the entities found to be part of those transactions. Such judgements include PAN Asia Advisors Limited and Anr. vs. SEBI (Appeal No. 126 of 2013 decided on 25.10.2016) and Cals Refineries Limited vs. SEBI (Appeal No. 04 of 2014 decided on 12.10.2017). The modus operandi adopted in all such cases have been similar i.e. the subscriber

to the GDR issue (Vintage here) taking a loan from a foreign bank/ investment bank (EURAM Bank here) enabled by a Pledge Agreement signed between the issuer company (JCL here) and the loaner bank. This arrangement itself vitiates the entire issue of GDR as it is through an artificial arrangement supported by the company itself which enables the subscription to the GDR. Therefore, the contention in the order that it is a fraudulent scheme created by the appellants along with some other entities cannot be faulted.”

5.63. Thus, I find that EURAM Bank was acting as a conduit of Arun Panchariya and facilitated India Focus Cardinal Fund to become its sub-account and sell the converted shares of Rasoya in the Indian securities market. Accordingly, I find that EURAM Bank has violated Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 r /w Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

Highblue Sky Emerging Market Fund, Golden Cliff and KBC Aldini Capital Limited

5.64. Highblue Sky in its submissions/replies submitted to SEBI has refuted the allegations made in the SCN. The same have been captured in the previous part of this order, and accordingly are not being reproduced here. It is, however, relevant to briefly mention herein the principal grounds of defence taken by the said Noticee in respect of the allegations made in the SCN –

- a. the allegation of the Noticee’s connection with Arun Panchariya was on the ground that Anant Sharma and Reema Shetty were connected to Arun Panchariya, but the cancellation of GDRs and the sale of the converted equity shares of Rasoya Metal and Power Limited were done up to May 17,

2013, which was prior to the association of Anant Sharma (August 11, 2014) and Reema Narayan Shetty (April 21, 2014);

- b. Arun Panchariya and Anant Sharma being Directors in one Indian company cannot be used to conclude that Anant Sharma was connected with Arun Panchariya in all the businesses; and
- c. the KYC documents of Highblue Sky showing its address and contact numbers being common with Aurisse fund was because Aurisse was the management company for Highbluesky Emerging Market Fund, and provided services, viz., accounting, NAV calculations etc.

5.65. A summary of the shares received by Highblue Sky upon conversion of GDRs and the sale of those shares is provided hereunder:

Table – 16

Date	Shares received on GDR cancellations	Quantity of equity shares sold	Running balance of equity shares	Trade Value in INR
23-Sep-11- 04-Oct-11	2,65,200		2,65,200	
05-Jun-12 24-Jul-12		76,600	1,88,600	18,74,223
17-Oct-12	7,81,000		9,69,600	
05-Dec-12 19-Dec-12		7,33,000	2,36,600	6,84,91,000
28-Dec-12	8,00,000		10,36,600	
04-Jan-13 20-Mar-13		6,67,400	3,69,200	7,25,83,123

<i>Corporate Action</i>	14,76,800		18,46,000	FV Split from Rs. 5 to Rs. 1
<i>Corporate Action</i>	36,92,000		55,38,000	2 Bonus shares for 1 share
21-Mar-13		3,50,000	51,88,000	28,93,350
02-Apr-13	40,00,000		91,88,000	
03-Apr-13 07-May-13		72,50,000	19,38,000	6,89,81,150
13-May-13	20,00,000		39,38,000	
15-May-13		5,00,000	34,38,000	48,25,000
17-May-13	20,00,000		54,38,000	
24-May-13 05-Jun-13		20,00,000	34,38,000	2,12,00,000
06-Jun-13	40,00,000		74,38,000	
14-Jun-13 12-Sep-13		42,50,000	31,88,000	5,57,37,510
16-Sep-13	20,00,000		51,88,000	
17-Sep-13		10,00,000	41,88,000	1,45,50,000
17-Dec-13	2,00,00,000		2,41,88,000	
19-Feb-14 19-Sep-14		43,39,037	1,98,48,963	7,05,98,664
30-Oct-14	3,55,89,160		5,54,38,123	
12-Sep-14 04-Feb-15		4,98,21,662	56,16,461	6,17,13,494
06-Feb-15	4,72,38,460		5,28,54,921	
12-Feb-15 25-Feb-15		5,02,11,492	26,43,429	2,77,06,858
03-Mar-15	3,49,39,520		3,75,82,949	
05-Mar-15 10-Mar-15		1,48,50,968	2,27,31,981	98,18,937
11-Mar-15	12,33,97,580		14,61,29,561	
11-Mar-15 18-Mar-15		5,76,37,925	8,84,91,636	4,85,28,444
24-Mar-15		9,98,000 Tendered in auction	8,74,93,636	7,48,500
27-Mar-15	1,50,00,000		10,24,93,636	
30-Mar-15 04-Aug-15		10,24,93,636	-	4,71,31,938

29,71,79,720	29,71,79,720	
	Total	57,73,82,191

5.66. It is seen from the above table that Highblue Sky received 29,71,79,720 equity shares of Rasoya upon conversion of GDRs of Rasoya. It is also seen from the above table that all the 29,71,79,720 equity shares received by Highblue Sky Fund were then sold by it in the Indian capital market between June 05, 2012 and August 04, 2015 for a total value of Rs. 57,73,82,191. The shares sold by the sub-account, Highblue Sky Emerging Market Fund were done through the FII, Golden Cliff.

5.67. In this regard, it is seen that Reema Narayan Shetty was a director of Golden Cliff from May 16, 2013 to August 01, 2014. There was a common period of two months (May 16, 2013 to July 16, 2013) when she was a director of Golden Cliff, which coincided with the selling of shares by Highblue Sky Emerging Market Fund.

5.68. Reference is made to emails dated March 02, 2016 and April 29, 2016 whereby Highblue Sky Emerging Market Fund has provided its shareholding and directorship details. The details provided by way of the above emails bring out the connection between Reema Narayan Shetty and Arun Panchariya. The details are as under:

- a. Reema Narayan Shetty was the authorised signatory of India Focus Cardinal Fund for the bank account held with EURAM Bank Austria as on June 02, 2011. It has already been established above that India Focus Cardinal Fund was managed and operated by Arun Panchariya.

- b. She was the beneficial owner of Golden Cliff from September 12, 2013 till September 09, 2014.
- c. From April 21, 2014, upon Golden Cliff acquiring the complete shareholding in Highblue Sky Emerging Market Fund, she also became the beneficial owner of Highblue Sky Emerging Market Fund.

5.69.As regards Anant Kailash Chandra Sharma, it is seen from the above mentioned emails that —

- a. He joined as a director of Highblue Sky Emerging Market Fund on August 11, 2014.
- b. Anant Kailash Chandra Sharma became the beneficial owner of Golden Cliff on September 09, 2014.
- c. He also became the beneficial owner of Highblue Sky Emerging Market Fund on September 09, 2014, by virtue of being the beneficial owner of Golden Cliff, which holds 100 % shareholding in Highblue Sky Emerging Market.

5.70.Furthermore, it is seen from the information available on the MCA website that Anant Sharma was a director in the following Companies between 2009 and 2016:

Table-17

Serial No.	Director	Company	Start Date	End Date
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1	Anant Kailash Chandra Sharma	Alka India Limited	01/12/2009	-
2	Anant Kailash Chandra Sharma	Sai Sant Advisory (India) Private Ltd.	01/12/2009	18/03/2016
3	Anant Kailash Chandra Sharma	Vintage FZE (India) Private Limited	22/12/2009	18/03/2016
4	Anant Kailash Chandra Sharma	Ramsai Investment Holdings Private Limited	01/09/2015	18/03/2016

5.71. It is seen from the MCA website that between 2009 and 2016, the tenure of Arun Panchariya as a director coincided with Anant Sharma's tenure as a director in the following companies :

Table-18

Serial No.	Director	Company	Start Date	End Date
1	Arun Panchariya	Sai Sant Advisory (India) Private Ltd.	31/08/2007	20/10/2010
2	Arun Panchariya	Ramsai Investment Holdings Private Limited	04/02/2008	18/08/2010

5.72. Further, between 2009 and 2016, the tenure of Mukesh Chauradiya as a director coincided with Anant Sharma's tenure as a director in the following companies :

Table-19

Serial No.	Director	Company	Start Date	End Date
1	Mukesh Chauradiya	Alka India Limited	31/01/2006	01/06/2010
2	Mukesh Chauradiya	Ramsai Investment Holdings Private Limited	17/08/2010	17/03/2015

5.73. Furthermore, from the MCA website it is seen that between 2009 and 2016, the tenure of Satish Panchariya and Ashok Panchariya (related to Arun Panchariya) as directors coincided with Anant Sharma's tenure as a director in the following companies :

Table-20

Serial No.	Director	Company	Relevant Period
1	Satish Ramswaroop Panchariya	Alka India Limited	01/02/2000 onwards
2	Ashok Ramswaroop Panchariya	Alka India Limited	29/04/2005 onwards
3	Ashok Ramswaroop Panchariya	Ramsai Investment Holdings Private Limited	17/03/2016 onwards
4	Ashok Ramswaroop Panchariya	Sai Sant Advisory (India) Private Ltd.	17/03/2016 onwards
5	Ashok Ramswaroop Panchariya	Vintage FZE (India) Private Limited	30/09/2007 onwards

5.74. So, from the above-mentioned tables, it is seen that Anant Sharma was a director in the companies where the directorships were either held by Arun Panchariya or Arun Panchariya related entities.

5.75. Also, it would be relevant to see the shareholding pattern of the companies in which Anant Sharma held directorships:

Table-21

Serial No.	Company	Shareholding Pattern
1	Vintage FZE (India) Private Limited	<p><i>As on September 30, 2010</i></p> <ul style="list-style-type: none"> ▪ Vintage FZE – 99.98 % (9998 shares) ▪ Arun Panchariya – 0.01% (1 share) ▪ Mukesh Chauradiya – 0.01% (1 share) <p><i>As on September 30, 2013</i></p> <ul style="list-style-type: none"> ▪ Vintage FZE – 99.99 % (9998 shares) ▪ Mukesh Chauradiya – 0.02% (2 shares)

5.76. Thus, it is seen from the above that Anant Sharma was involved in such businesses which were owned/managed by Arun Panchariya or related entities. It is to be noted that Anant Sharma became the owner of Golden Cliff upon receiving the shares from Reema Narayan Shetty. The connection that exists between Anant Sharma and Reema Narayan Shetty, is that both are related to Arun Panchariya. Furthermore, Highblue Sky Emerging Market Fund is owned by Golden Cliff.

5.77. Furthermore, it is seen from the record that Daniel Baumslag was a director of KBC Aldini Capital from October 25, 2009 to September 27, 2011, and thereafter from August 03, 2015 to July 31, 2016. He was also a director of Highblue Sky

from March 05, 2010 to May 16, 2011. Also, it is seen from the record that as on June 13, 2011 Daniel Baumslag was the beneficial owner of Highblue Sky.

5.78. In the present proceedings, the allegation is that Golden Cliff and KBC Aldini Capital Limited, registered FIIs, facilitated Highblue Sky Emerging Market Fund, their sub-account to sell the illegally acquired shares in the Indian securities market.

5.79. It has already been established that Vintage, an Arun Panchariya entity, fraudulently subscribed to the GDRs of GDRs. It has also been brought out that Highblue Sky Emerging Market Fund, which came to possess the GDRs and converted them into equity shares, and Golden Cliff were both Arun Panchariya related entities. Daniel Baumslag, a director of KBC Aldini Capital and a director of Highblue Sky as on June 13, 2011 was the beneficial owner of Highblue Sky Emerging Market Fund. It has already been brought out that the beneficial owner of Highblue Sky Emerging Market Fund on September 09, 2014 was Anant Sharma, by virtue of being the beneficial owner of Golden Cliff, which holds 100% shareholding in Highblue Sky Emerging Market Fund. Also, it has already been brought out above that Anant Sharma was also connected to Arun Panchariya.

5.80. In view of the same, I am convinced that Golden Cliff and KBC Aldini Capital Limited worked as a conduit for Arun Panchariya and Highblue Sky Emerging Market Fund to sell the illegally acquired shares of Rasoya in the Indian securities market. Accordingly, I find that Highblue Sky Emerging Market Fund, Golden Cliff and KBC Aldini Capital Limited have violated Section 12A(a), 12A(b), 12A(c)

of the SEBI Act 1992 r /w Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

Aspire Emerging Fund

5.81. Aspire Emerging Fund in its submissions/replies submitted to SEBI has refuted the allegations made in the SCN. The same have been captured in the previous part of this order, and accordingly are not being reproduced here. It is, however, relevant to briefly mention herein the principal grounds of defence taken by the said Noticee in respect of the allegations made in the SCN –

- a. Aspire Emerging Fund's share of the total traded value of the shares of Rasoya by the four funds is only 3.68% of total traded value;
- b. the other funds sold the shares across a long period of time, whereas the present Noticee only sold the shares from 20.02.2015 to August 06, 2015, so a distinction needs to be made between the present Noticee and the other three sub-accounts;
- c. the connection with Arun Panchariya and other Arun Panchariya connected entities has been attempted to be established mainly on the ground that Aslam Kanowah who was also director of Highblue Sky (along with Anant Sharma) was also a director of the Present Noticee along with Ashish Nanda, the MD of Image Securities Limited;

- d. Aslam Kanowah was CEO of Aurisse International and as per the contractual agreement with Aurisse, two local directors were provided and appointed by Aurisse in the Noticee, because of which Aslam was appointed as a director, which is a common practice in Mauritius and Mauritius law allows companies to provide such service; and
- e. the Noticee was not aware of any connection between Golden Cliff and Arun Panchariya; and
- f. the Noticee had considerable investments in the Indian markets and the same were not confined to GDRs.

5.82.A summary of the shares received by Aspire upon conversion of GDRs and the sale of those shares is provided hereunder:

Table - 22

Date	Shares received on GDR cancellations	Quantity of equity shares sold	Running balance of equity shares	Trade Value in INR
07-Nov-14	4,81,200		4,81,200	
11-Dec-14	2,00,00,000		2,04,81,200	
16-Feb-15	4,00,00,000		6,04,81,200	
20-Feb-15		12,50,000	5,92,31,200	6,82,535
25-Feb-15		1,70,00,000	4,22,31,200	76,64,604
03-Mar-15		56,98,016	3,65,33,184	28,49,008
04-Mar-15		62,53,251	3,02,79,933	34,39,288
13-Mar-15	10,57,48,340		13,60,28,273	
13-May-15		98,82,353	12,61,45,920	40,15,941
19-May-15		1,70,00,000	10,91,45,920	42,50,000
02-Jun-15		1,70,00,000	9,21,45,920	63,21,339
16-Jun-15		85,00,000	8,36,45,920	25,50,000
03-Jul-15		2,50,89,320	5,85,56,600	62,78,567

21-Jul-15		1,08,39,520	4,77,17,080	27,33,275
22-Jul-15		95,42,708	3,81,74,372	23,85,677
23-Jul-15		36,52,746	3,45,21,626	9,13,187
24-Jul-15		12,63,776	3,32,57,850	3,28,582
27-Jul-15		18,25,250	3,14,32,600	4,74,565
28-Jul-15		41,97,383	2,72,35,217	10,49,346
29-Jul-15		40,00,000	2,32,35,217	10,00,000
30-Jul-15		97,05,677	1,35,29,540	24,26,419
31-Jul-15		62,93,654	72,35,886	15,73,414
04-Aug-15		34,58,307	37,77,579	8,64,577
06-Aug-15		37,77,579	0	9,44,395
16,62,29,540		16,62,29,540		
Total				5,27,44,718

5.83. It is seen from the above table that Aspire Emerging Fund received 16,62,29,540 equity shares of Rasoya upon conversion of GDRs of Rasoya. It is also seen from the above table that all the 16,62,29,540 equity shares received by Aspire Emerging Fund were then sold by it in the Indian capital market between February 25, , 2015 and August 06, 2015 for a total value of Rs. 5,27,44,718. The shares sold by the sub-account, Aspire Emerging Fund were done through the FII, Golden Cliff.

5.84. It has already been established that Golden Cliff was related to Arun Panchariya. It has further been established that the beneficial owner of Highblue Sky Emerging Market Fund on September 09, 2014 was Anant Sharma, who was related to Arun Panchariya by being a director in the companies where the directorships were held by Arun Panchariya or Arun Panchariya related entities.

5.85. The SCN has alleged that Aspire Emerging Fund was related to Arun Panchariya as Aslam Kanowah, who was a director of Higblue Sky Emerging Fund, was also a director in Aspire along with Ashish Nanda, the MD of Image Securities Limited.

5.86. In this respect, it has been submitted by Aspire Emerging Fund that Aslam Kanowah was the CEO of Aurisse International and as per the contractual agreement with Aurisse, two local directors were provided and appointed by Aurisse in Aspire Emerging Fund, one of them being Aslam Kanowah.

5.87. The website of Aurisse International states that it is a “*management company set up in Mauritius to provide an array of services such as advisory, management, secretarial, accounting and administration services to international businesses and private clients undertaking cross-border business operations or local activities.*” The Association of Trust & Management Companies, Mauritius, which is a trade body of management companies, on its website lists more than 70 trust and management companies as its members. In a market where so many management companies are available, it cannot be a mere coincidence that Highblue Sky Emerging Fund, Golden Cliff and Aspire Emerging Fund were all availing the services of Aurisse International.

5.88. In view of the same, I find that Arun Panchariya and Aspire Emerging Fund used Golden Cliff as a conduit to sell the illegally acquired shares of Rasoya in the Indian securities market. I, however, note that the number of shares sold by Aspire Emerging Fund was quite limited and constituted only 3.68% of the total traded value of the shares.

Leman Diversified Fund

5.89. Leman Diversified Fund in its submissions/replies submitted to SEBI has refuted the allegations made in the SCN. The same have been captured in the previous part

of this order, and accordingly are not being reproduced here. It is, however, relevant to briefly mention herein the essential grounds of defence taken by the said Noticee in respect of the allegations made in the SCN –

- a. it came to have the GDRs of Rasoya after Global Emerging Strategies Fund – The Namam Fund subscribed to the participating shares of the Noticee by paying the consideration in kind;
- b. The GDRs/shares of Rasoya were acquired by the Noticee in the ordinary course of business in accordance with the laws of Mauritius and Bermuda by execution of necessary documents and until the receipt of the SCN from SEBI, the Noticee had no information regarding any irregularity in respect of the GDRs of Rasoya;
- c. the contention in the SCN that Al Jalore and Image Securities Ltd had invested in this Fund was erroneous and without any basis;
- d. it had no connection whatsoever with Aspire Emerging Fund and Highblue Sky Emerging Market Fund, also the allegation in the SCN that the Noticee was connected to Arun Panchariya by virtue of its connection with Highblue Sky was without any basis or material on record;

- e. the Noticee had no connection with Arun Panchariya, the entities connected with him, Rasoya, or any of the directors and promoters of Rasoya.

5.90.A summary of the shares received by India Focus upon conversion of GDRs and the sale of those shares is provided hereunder:

Table - 23

Date	Shares received on GDR cancellations	Quantity of equity shares sold	Running balance of equity shares	Trade Value in INR
19/08/2013	20,00,000		20,00,000	
13/09/2013		90,000	19,10,000	13,14,000
16/09/2013	55,00,000		74,10,000	
09/10/2013 13/11/2013		56,63,000	17,47,000	8,91,69,183
18/12/2013	2,29,85,060		2,47,32,060	
18/12/2013 23/09/2014		1,82,10,822	65,21,238	31,94,23,099
14/10/2014	1,43,20,280		2,08,41,518	
28/11/2014	2,00,00,000		4,08,41,518	
16/02/2015 13/03/2015		3,95,41,518	13,00,000	2,19,60,830
	6,48,05,340	6,35,05,340		
Total				43,18,67,112

5.91.It is seen from the above table that Leman received 6,48,05,340 equity shares of Rasoya upon conversion of GDRs of Rasoya. It is also seen from the above table that all the 6,35,05,340 equity shares received by Leman Diversified Fund were then sold by it in the Indian capital market between September 13, 2013 and March 13, 2015 for a total value of Rs. 43,18,67,112.

5.92.The SCN has alleged that Leman Diversified Fund had Al Jalore and Image Securities Limited as its investors. This allegation is based on the fact that Aslam Kanowah was a director of Highblue Sky Emerging Fund and was also a director of Aspire along with Ashish Nanda. Ashish Nanda is the Managing Director of Image Securities Limited.

5.93.As regards, investment of Image Securities Limited (an Ashish Nanda entity), it has been submitted by Leman that the said assertion is without any basis.

5.94.In this regard, it has already been brought out above that Highblue Sky Emerging market Fund, an Arun Panchariya entity, was related to Aspire Emerging Fund, an entity owned by Ashish Nanda. Further, while Leman has asserted that Al Jalore and Image Securities Limited had not invested in it, it is seen from the shareholding pattern provided by Deutsche Bank by way of an email dated September 12, 2016 that Al Jalore held 6.8 % of the shareholding and Image Securities Ltd. held 3.54 % of the shareholding.

5.95.In view of the above connection, I find that Leman Diversified Fund has acted as a conduit for Arun Panchariya to sell the illegally acquired shares in the Indian capital market.

5.96.Accordingly, I find that Aspire Emerging Fund and Leman Diversified Fund have violated Section 12A(a), 12A(b), 12A(c) of the SEBI Act 1992 r /w Regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations, 2003.

V. Whether Vintage (Noticee No. 7), India Focus Cardinal Fund (Noticee No. 10), Highblue Sky Emerging Market Fund (Noticee No. 11), Leman Diversified Fund (Noticee No. 12) and Aspire Emerging Fund (Noticee No. 13) should be directed to disgorge the illegal gains?

5.97. As already stated a Supplementary Show-cause Notice dated January 17, 2019 was issued to Noticee Nos. 7, 10, 11, 12 and 13 for the disgorging of profits made through the sale of shares, upon conversion of fraudulently acquired GDRs of Rasoya.

5.98. I note that Noticee Nos. 10, 11, 12, and 13 sold shares of Rasoya, upon conversion of GDRs, in the Indian capital market and earned ***Rs. 37,10,26,064; Rs.57,73,82,191 ; Rs. 43,18,67,112 and Rs. 5,27,44,718*** respectively. Thus, the said Noticees made a total gain of ***Rs. 1,43,30,20,084***. I also note that the acquisition of the GDRs was due to Noticee No.7, which had subscribed to the GDR issue of Rasoya, and the onward transmission to Noticee Nos. 10, 11, 12 and 13 who then converted the GDRs into equity shares and sold them in the market for the above mentioned amount. The above mentioned Noticees i.e. Noticee Nos. 7, 10, 11,12 and 13 were either owned/ controlled or related to Noticee No. 5, Arun Panchariya, who had devised the whole scheme for making illegal gains. Thus, the total gain of Rs. 1,43,30,20,084 made was a consequence of the collective action of Noticee Nos. 7, 10, 11, 12 and 13. In view of the above, as alleged in the Supplementary SCN, I find that Noticee Nos. 7, 10, 11, 12 and 13 are jointly and severally liable to disgorge Rs. 1,43,30,20,084.

6. Conclusion –

6.1. Thus, from the above, it is concluded that Rasoya in connivance with Vintage devised a fraudulent scheme whereby Vintage received GDRs without paying any consideration for the GDRs, at the cost of the shareholders / investors of Rasoya. Further, the directors, Anil Lonkar (Noticee No. 2), Sameer Damle (Noticee No. 3), Ajay Singh (Noticee No. 4), Prashant Duchakke (Noticee No. 5), are liable for the above mentioned fraudulent scheme as they were fully involved in the day-to-day activities of the Company, and had complete knowledge of the activities of the Company during the process of issuance of GDRs. I note that by way of a letter dated October 31, 2018 it has been informed by the Liquidator, AAA Insolvency Professionals LLP that the liquidation process had commenced in respect of Rasoya Proteins Limited under the provisions of Insolvency and Bankruptcy Code, 2016 by order dated October 30, 2018 of the National Company Law Tribunal, Mumbai Bench, Mumbai in MA 237/2018 in TCP 856 /I&BP/NCLT/MAH/2017. Vintage FZE, Noticee No.7, was part of the fraudulent scheme as a consequence of which, it received the GDRs without payment of consideration. Arun Panchariya, Noticee No. 6, the director of Vintage was instrumental in the activation of the fraudulent scheme and benefitted the most from the same being the beneficial owner of Vintage. Mukesh Chauradiya, Noticee No. 8, a key manager in Vintage was fully involved in the day-to-day activities of Vintage, and had signed the Loan Agreement whereby loan was

provided by EURAM Bank to extend credit facility to Vintage to subscribe to the GDR issue of Rasoya. Further, Pan Asia Advisors Ltd., Noticee No. 9, the lead manager for the GDR issue, which was owned and controlled by Arun Panchariya carried out its activities to further the fraudulent scheme, and as such was a party to the same. Furthermore, the GDRs illegally acquired by Vintage were sold in the Indian securities market by India Focus Cardinal Fund, Noticee No. 10, Highblue Sky Emerging Market Fund, Noticee No. 11, Leman Diversified Fund, Noticee No. 12, Aspire Emerging Fund, Noticee No. 13. The above entities were sub-accounts of Cardinal Capital Partners, Noticee No. 14; EURAM Bank, Noticee No. 15; Golden Cliff, Noticee No. 16; and KBC Aldini Capital Ltd.. These entities were all related to Arun Panchariya, the beneficial owner of Vintage, either by ownership or through business relations. Pursuant to the same, I have found that Noticee Nos. 10 to 17 acted as conduits for Arun Panchariya by facilitating the sale of illegally acquired securities in the Indian securities market.

6.2. As already stated, an Ex-parte Interim Order dated September 24, 2014 was passed by SEBI in respect of Rasoya Protein Ltd.; Anil Lonkar; Prashant Duchakke; Sameer Damle; Ajay Singh; Arun Panchariya; India Focus Cardinal Fund; Pan Asia Advisors Ltd; Vintage FZE and Mukesh Chauradiya. Subsequently, the directions in Ex-parte Interim Order dated September 24, 2014 against the above-named ten entities were confirmed by way of an Order dated March 23, 2015. Thus, the directions issued vide para 45 of the interim order continue against the aforesaid ten entities and they remain restrained from accessing the securities

market and further prohibited from buying, selling or dealing in securities or any instrument exchangeable or convertible into securities, directly or indirectly, in any manner whatsoever.

6.3. Further, as a consequence of the collective action of Noticee Nos. 7, 10, 11, 12 and 13, a total gain of Rs. 1,43,30,20,084 was made by Noticee Nos. 10, 11, 12 and 13, and as such, the said Noticees are jointly and severally liable to disgorge the above amount.

6.4. I note that by way of an Interim Order dated September 24, 2014, Noticee Nos. 2 to 10 have been restrained from accessing, buying, selling and dealing in the securities market. In view of the period of restraint already undergone, I am not inclined to pass any further directions to restrain Noticee Nos. 2, 3, 4, 5, 7, 8, 9 and 10. However, I would like to impose certain restrictions on their association with listed companies, SEBI intermediaries etc., which are detailed under the heading 'Directions' below.

7. Directions –

7.1. I, in exercise of powers conferred upon me under sections 11(1), 11 (4) and 11B the Securities and Exchange Board of India Act, 1992 hereby pass the following directions:

7.1.1. In view of the observations in para 6.1. above and in light of the current status of Noticee No.1 pursuant to the appointment of a liquidator under IBC, the directions in the Interim Order dated September 24, 2014 with respect to Noticee No. 1 stand abated. Accordingly, the SCN dated December 04, 2017 and the

Supplementary SCN dated September 05, 2019 stand disposed of without any further directions.

7.1.2. In any event, if the order for liquidation as passed by the NCLT, Mumbai is reversed, Noticee No. 1, Rasoya Proteins Limited shall:

- (i) be restrained from accessing the securities market and also remain prohibited from buying, selling or dealing in securities, directly or indirectly, in any manner whatsoever or being associated with the securities market in any manner, whatsoever, for a period of 3 years from the date of such reversal of the order of liquidation; and
- (ii) continue to pursue measures to bring back the outstanding amount of USD 31,999,589.86 into its bank account in India. Noticee Nos. 2, 3, 4 and 5 shall ensure the compliance of this direction by Noticee No. 1 and Noticee No. 1 shall furnish a Certificate from a Chartered Accountant of ICAI along with necessary documentary evidences, certifying the compliance of this direction to “*The Division Chief, EFD, DRA-1, Securities and Exchange Board of India, SEBI Bhawan, Plot NO. C4 A, G Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400051*”.

7.1.3. The Noticees, as listed in the table below, shall be restrained from accessing the Indian securities market, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, and associating with the securities market in any manner, whatsoever:

Sr. No.	Noticee	Whether Debarred by Interim Order dated September 24, 2014	Period of Debarment
2.	Anil Lonkar	Yes	Till the date of this order
3.	Sameer Damle	Yes	Till the date of this order
4.	Ajay Singh	Yes	Till the date of this order
5.	Prashant Duchakke	Yes	Till the date of this order
6.	Arun Panchariya	Yes	3 years
7.	Vintage FZE	Yes	Till the date of this order
8.	Mukesh Chauradiya	Yes	Till the date of this order
9.	Pan Asia Advisors Ltd.	Yes	Till the date of this order
10.	India Focus Cardinal Fund	Yes	Till the date of this order
11.	Highblue Sky Emerging Market Fund	No	8 years
12.	Leman Diversified Fund	No	8 years
13.	Aspire Emerging Fund	No	8 years
14.	Cardinal Capital Partners	No	2 years
15.	European American Investment Bank AG	No	2 years

16.	Golden Cliff	No	2 years
17.	KBC Aldini Capital Ltd.	No	2 years

7.1.4. The Noticees, as listed in the table below, shall be restrained from holding any position of Director or key managerial personnel in any listed company or any intermediary registered with SEBI, or associating themselves with any listed public company or a public company which intends to raise money from the public or any intermediary registered with SEBI for the respective periods as provided hereunder:

Sr. No.	Noticee	Period (in years)
2.	Anil Lonkar	3
3.	Sameer Damle	3
4.	Ajay Singh	3
5.	Prashant Duchakke	3
6.	Arun Panchariya	10
8.	Mukesh Chauradiya	3

7.1.5. Vintage FZE (Noticee No. 7), India Focus Cardinal Fund (Noticee No.10), Highblue Sky Emerging Market Fund (Noticee No. 11), Leman Diversified

Fund (Noticee No. 12) and Aspire Emerging Fund (Noticee No. 13) are further directed to disgorge illegal gains of a total gain of Rs. 1,43,30,20,084, made by way of sale of equity shares of Rasoya along with interest of 12% per annum from August 06, 2015 till the payment of disgorgement amount, within a period of 45 days from the date of this order. As already stated, the liability of Nos. 7, 10, 11,12 and 13 to disgorge the said amount shall be joint and several. In the event, Noticee Nos. 7, 10,11,12 and 13 fail to comply with the said direction, SEBI shall be free to recover the said amount from the Noticees under Section 28A of SEBI Act, 1992 and the said Noticees shall also be restrained from accessing the securities market and prohibited from buying, selling or otherwise dealing in the securities market, till the actual payment or recovery of disgorgement amount or till the completion of the debarment directed, whichever is later.

7.2. The above directions shall come into force with immediate effect.

7.3. The obligation of the Noticees debarred in the present Order, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order, only in respect of pending unsettled transactions, if any. Further, all open positions, if any, of the Noticees debarred in the present Order, in the F&O segment of the Stock

Exchanges, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

7.4. The period of debarment as directed by way of this Order shall run concurrently in respect of any Noticee, as mentioned in 7.1 above, who may already be undergoing any period of debarment with respect to similar issues of GDRs.

7.5. A copy of this order shall be served upon the Noticees immediately. A copy shall be served on the recognised Stock Exchanges and the Depositories for necessary action.

7.6. A copy of this order may also be sent to the Liquidator, Reserve Bank of India, Enforcement Directorate and Ministry of Corporate Affairs for information and necessary action, if any.

Place: Mumbai

Date: October 22, 2021

G. MAHALINGAM

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA