

SECURITIES AND EXCHANGE BOARD OF INDIA

UNDER SECTION 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

IN RESPECT OF UNICON CAPITAL SERVICES PVT. LTD., ITS DIRECTORS MR. GAJENDRA NAGPAL AND MR. RAM MOHAN GUPTA AND ITS KEY MANAGEMENT PERSONNEL MR. PAWAN DHANUKA AND MR. PRITAM PANDYA.

1. Unicon Capital Services Pvt. Ltd. (hereinafter referred to as “Unicon Capital”) having its registered office at 69, 2nd Floor, Regal Building, Connaught Place, New Delhi was granted certificate of initial registration as a merchant banker (Registration number: INM000011609) by Securities and Exchange Board of India (hereinafter referred to as “SEBI”) on December 22, 2009. Mr. Gajendra Nagpal and Mr. Ram Mohan Gupta were the directors of Unicon Capital, Mr. Pawan Kumar Dhanuka was its Chief Financial Officer and Mr. Pritam Dinesh Pandya was the head of its Investment Banking during the relevant time.
2. The shareholding pattern of Unicon Capital is as under:

Shareholding Pattern of Unicon Capital as on January 11, 2013			
Sr. No.	Name	No. of shares	% shareholding
1	Unicon Financial Intermediaries Pvt. Ltd.	505000	98.0582
2	Mr. Gajendra Nagpal	6500	1.2621
3	Mr. Ram Mohan Gupta	3500	0.6796
	Grand Total	515000	100.00

3. The shareholding pattern of Unicon Financial Intermediaries Pvt. Ltd. (hereinafter referred to as “Unicon Financial”), which is the major shareholder (holding 98.06% shares) of Unicon Capital, is as under:

Shareholding Pattern of Unicon Financial as on March 31, 2013			
Sr. No.	Name	No. of shares	% shareholding
1	Mr. Gajendra Nagpal	6980000	27.50
2	Mr. Ram Mohan Gupta	3930000	15.48
3	Jamuna Consultants Pvt. Ltd.	2620000	10.32
4	Ms. Sameera Aga Zaidi	1500000	5.91

5	Mr. Umesh R Doshi	460000	1.81
6	Sequoia Capital India Growth Investment	4000	0.02
7	Ms. Vandana Manchanda	545600	2.15
8	Subhkam Ventures India Ltd	7049000	27.77
9	Nexus India Ventures Investments	2000	0.01
10	Mr. Girish R Doshi	460000	1.81
11	Mr. Sanjay R Doshi	467600	1.84
12	Others	1364400	5.38
	Grand Total	25382600	100.00

4. Mr. Gajendra Nagpal and Mr. Ram Mohan Gupta are part of the promoter group of Unicon Financial and they together hold 42.98 % of its equity share capital. Thus, they together, directly and indirectly, hold 44.087% of the equity share capital of Unicon Capital.
5. The certificate of initial registration granted by SEBI to Unicon Capital aforesaid was valid for a period of three years, i.e., till December 21, 2012. With effect from July 05, 2011, the provisions of the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992 (the Merchant Bankers Regulations) regarding grant of certificate of initial registration were amended and pursuant to the amendment, regulation 8(3) of the Merchant Bankers Regulations read as under:-

"Grant of certificate of initial registration.

8. (3) The merchant banker who has already been granted certificate of registration by the Board, prior to the commencement of the Securities and Exchange Board of India (Merchant Bankers) (Amendment) Regulations, 2011, and has not completed a period of three years, shall be deemed to have been granted a certificate of initial registration for a period of five years from the date of its certificate of registration, subject to payment of fee for the remaining period of two years, as prescribed in Schedule II of these regulations."

6. In terms of the above provision of regulation 8(3), a merchant banker who was granted certificate of registration prior to coming into effect of the above amendment and had not completed 3 years was deemed to have been granted registration for a period of 5 years from the date of initial registration subject to payment of applicable fees for remaining period of 2 years. As required under clause (1A) read with 3(aa) of Schedule II of the Merchant Bankers Regulations, such merchant banker is required to pay the fee for the remaining period of two years , three months before the expiry of initial registration.
7. In this case, the initial registration granted to Unicon Capital expired on December 21, 2012.

However, instead of paying the registration fee in terms of the Merchant Bankers Regulations as stated above, vide letter dated January 11, it submitted an application for renewal of its registration as Category-I merchant banker. SEBI vide letter dated March 05, 2013 confirmed to Unicon Capital that its certificate of registration had expired on December 21, 2012. SEBI further advised Unicon Capital that since it had filed renewal application after the expiry of registration certificate the said application shall be treated as the application for initial registration. In that regard, SEBI required Unicon Capital to furnish an undertaking with regard to compliance of requirements of SEBI circular *SEBI/MIRSD/DR-2/SRP-Cir-2/2005* dated January 4, 2005 which *inter alia* provides as under:

"Renewal of Certificate of Registration

2. if the application for renewal is received at SEBI less than 3 months before the expiry of registration and SEBI has not advised otherwise by the date of expiry of registration, the intermediary shall stop undertaking any fresh business / clients from the date of expiry of the registration.

SEBI may initiate any action that may be deemed appropriate for late submission of application under the provisions of the SEBI Act, 1992 and the regulations framed there under.

It is clarified that in the above cases, the application for renewal shall mean the application complete in all respects. Incomplete application will be treated as no application."

8. Unicon Capital vide its letter dated March 11, 2013 requested to treat its case under the aforesaid amended provisions of regulation 8(3) of the Merchant Bankers Regulations. Vide letter dated March 20, 2013, SEBI informed Unicon Capital that its registration was valid upto December 21, 2012 and in order to obtain the deemed extension of the validity in terms of provisions of regulation 8(3) it was required to pay the fees for the remaining period of 2 years. By this letter SEBI further advised Unicon Capital that it had ceased to be a SEBI registered merchant banker after December 21, 2012 and reminded it to ensure compliance with requirements of *SEBI/MIRSD/DR-2/SRP-Cir-2/2005* dated January 4, 2005.
9. Vide its letter dated January 27, 2014, Unicon Capital furnished a demand draft towards payment of fees for deemed extension of registration certificate. Vide letter dated February 06, 2014 Unicon Capital furnished the original registration certificate to SEBI for further necessary action. While SEBI was examining the request, vide its email dated July 21, 2014, Unicon Capital withdrew its renewal application.

10. Since, Unicon Capital had not paid the fees in terms of the Merchant Bankers Regulations, it had ceased to be a merchant banker on expiry of its initial registration on December 21, 2012. SEBI noted that Unicon Capital had filed draft prospectus of Amsons Apparels Ltd. on July 28, 2014 in BSE SME segment though it did not have a certificate of registration from SEBI as on that date to act as a merchant banker. This act was, *prima facie*, in violation of the provisions section of 12 of the Securities and Exchange Board of India Act, 1992 (the SEBI Act) and the aforesaid mentioned SEBI circular no. SEBI/MIRSD/DR-2/SRP-Cir-2/2005 dated January 4, 2005. The provisions of section 12(1) of the SEBI Act are reproduced below:

"Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock-broker, sub- broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act."

11. On inquiry by SEBI in this regard, BSE vide its letter dated August 26, 2014 informed SEBI that as per the due diligence certificate dated July 28, 2014 submitted by Unicon Capital to BSE it had declared and confirmed that:- *"we confirm that besides ourselves, all the intermediaries named in the prospectus are registered with the Board and that till date such registration is valid."*
12. Vide its letter dated August 22, 2014, Unicon Capital submitted that the draft prospectus of Amsons Apparels Ltd. was filed without the prior approval and consent of its director, Mr. Ram Mohan Gupta and that the merchant banking activity was being taken care by one Mr. Pritam Dinesh Pandya who was based out of Mumbai and who was reporting to Mr. Pawan Kumar Dhanuka in Delhi. Unicon Capital further submitted that both Mr. Pritam Dinesh Pandya and Mr. Pawan Kumar Dhanuka have tendered their resignations. Unicon Capital claimed that it is a matter of sheer negligence on their part that such a document has been filed with BSE without its director's prior knowledge.
13. Vide its letter/ e-mail dated August 27, 2014 Unicon Capital has informed that the following assignments were pending with it even after expiry of its registration:

Sr. No	Name of the Company	Product	Status	Remarks	Approval s	Unicon IB Head
1	Channel Nine Entertainment	SME-RI	Final approval	Only basis of allocation pending	BSE	Pritam Pandya
2	Bio-esteem	SME-RI	Final approval	Only basis of allocation pending	BSE	Pritam Pandya
3	Amsons Apparels Ltd.	SME-RI	Filed	Company visit completed	BSE	Pritam Pandya

14. From the material available on record, I note that Unicon Capital had ceased to be a SEBI registered merchant banker post December 21, 2012. However, after expiry of its certificate of registration on December 21, 2012, Unicon Capital had undertaken merchant banking assignments in case of SME issues of four companies and had filed draft prospectus with BSE-SME segment as described in the following table:

Sr. No.	Name of the Company	Date of filing
1.	Agrimony Commodities Ltd.	December 16, 2013.
2.	Bio-esteem	May 28 ,2014
3.	Channel Nine Entertainment	June 21, 2014
4.	Amsons Apparels Ltd.	July 28, 2014

15. I further note that all the above assignments were undertaken after SEBI had, vide its letter dated March 20,2013, clearly advised Unicon Capital that it had ceased to be a SEBI registered merchant banker after December 21, 2012 and that it had to ensure compliance with aforementioned SEBI circular *SEBI/MIRSD/DR-2/SRP-Cir-2/2005* dated January 4, 2005 in terms of which Unicon Capital was required to stop undertaking any fresh business / clients from the date of expiry of its registration certificate. I find that since Unicon Capital has acted as a merchant banker without having a certificate of registration from SEBI on the relevant dates when it filed the draft prospectus with BSE as discussed hereinabove, it contravened the provisions of section 12(1) of the SEBI Act and the aforesaid SEBI Circular *SEBI/MIRSD/DR-2/SRP-Cir-2/2005* dated January 4, 2005. Apart from this, the activities of

Unicon Capital are also in contravention of the provisions of Clause 16 of Code of Conduct provided in Schedule III of the Merchant Bankers Regulations. The provisions of the said clause 16 are reproduced below-

" Code of conduct for merchant bankers

16. A merchant banker shall ensure that any change in registration status/any penal action taken by the Board or any material change in the merchant banker's financial status, which may adversely affect the interests of clients/investors is promptly informed to the clients and any business remaining outstanding is transferred to another registered intermediary in accordance with any instructions of the affected clients."

16. In terms of provisions of regulation 106-O (2) of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations 2009 (ICDR Regulations) read with Schedule VI thereof the Merchant Banker managing any SME public issue is required to declare and undertake as following:

"(3)We confirm that besides ourselves, all the intermediaries named in the draft red herring prospectus/ draft prospectus/ draft letter of offer are registered with the Board and that till date such registration is valid."

17. In this case, while Unicon Capital acted as a unregistered merchant banker for aforesaid SME public issues, it gave false declaration and undertaking to BSE that it was a SEBI registered merchant banker. Thus, it also violated the above provisions of the ICDR Regulations.
18. Mr. Ram Mohan Gupata and Mr. Gajendra Nagpal are the designated directors in Unicon Capital and in that capacity, being part of the board of Unicon Capital, they cannot feign ignorance of its activities as claimed in the letter dated August 22, 2014. It is curious to note that the said letter dated August 22, 2014 has been written on the letter head of Unicon Securities Pvt. Ltd. and has been signed by Mr. Ram Mohan Gupta on behalf of Unicon Capital accepting its negligence. Mr. Pawan Dhanuka was the Chief Financial Officer of Unicon Capital and responsible for the merchant banking activities of Unicon Capital. I further note that the March 05, 2013 and March 20, 2013 letters were addressed by SEBI to Unicon Capital with attention to Mr. Pritam Pandya its Vice President and Head-Merchant Banking. Being responsible for the merchant banking activities of Unicon Capital as aforesaid they are also responsible for its acts and omissions.
19. Considering the above facts and circumstances, I find that Unicon Capital, its promoters/directors and its key management personnel have failed to act in accordance with the requirements of the SEBI Act, 1992, the SEBI (Merchant Bankers) Regulations, 1992, the SEBI (ICDR) Regulations 2009 and aforementioned SEBI circulars.

20. I note that Unickon Securities Pvt. Ltd. is a group company of Unicon Capital. Further, Mr. Gajendra Nagpal and Mr. Ram Mohan Gupta are also the directors in Unicon Securities Pvt. Ltd. In view of the *prima facie* serious observations in the inspection of Unickon Securities Pvt. Ltd. and its failure to resolve the complaints of investors, SEBI vide *ex-parte ad interim* order dated May 26, 2014 restrained Unickon Securities Pvt. Ltd. and its directors namely, Mr. Gajendra Nagpal and Mr. Ram Mohan Gupta from accessing the securities market and further prohibited them from buying, selling or dealing in securities market, either directly or indirectly or being associated with the securities market in any manner whatsoever, with immediate effect, till further directions.
21. SEBI has the duty to safeguard the interest of the investors and protect the integrity of the securities market. Since the conduct of Unicon Capital, its promoters/directors and its key managerial personnel is not in the interest of investors in the securities market, necessary action has to be taken against them immediately, else it may lead to loss of investor's trust in the securities market. I am convinced that this is a case where effective and expeditious action is required to be taken so as to prevent Unicon Capital from indulging in acts as observed in this case.
22. In view of the aforesaid, I, in exercise of powers conferred upon me by virtue of section 19 read with sections 11(1), 11(4), 11B and 11D of the SEBI Act, 1992, by way of this *ex-parte* order:
- A. restrain Unicon Capital Services Pvt. Ltd. (PAN: AABCU0157G), its directors namely, Mr. Gajendra Nagpal (PAN: AADPN5511A) and Mr. Ram Mohan Gupta (PAN: AGDPG7175M) and its two key management personnel namely, Mr. Pawan Dhanuka (PAN: ADDPD9749D) and Mr. Pritam Pandya (PAN: AORPP5179A) from accessing the securities market and further prohibit them from buying, selling or dealing in securities market, either directly or indirectly or being associated with the securities market in any manner whatsoever, with immediate effect, till further directions;
 - B. direct the above entities to cease and desist from the activities as noted above.
23. The above directions are without prejudice to the right of SEBI to take any other action that may be initiated against Unicon Capital Services Pvt. Ltd., its directors namely, Mr. Gajendra Nagpal and Mr. Ram Mohan Gupta and its two key management personnel namely, Mr. Pawan Kumar Dhanuka and Mr. Pritam Dinesh Pandya in accordance with law including the action in accordance with the provisions of the Securities and Exchange Board of India Act, 1992.

24. This order shall come into force with immediate effect. A copy of this Order shall be forwarded to all the Stock Exchanges and the Depositories to ensure that the directions given above are strictly complied with.
25. The entities/persons against whom this Order is being passed may file their objections, if any, within twenty one (21) days from the date of this Order and, if they so desire, may avail an opportunity of personal hearing before the Securities and Exchange Board of India, on a date and time to be fixed on a specific request in writing, received from the said entities/persons.

Sd/-

DATE: DECEMBER 8th, 2014

RAJEEV KUMAR AGARWAL

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA