

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: S. RAMAN, WHOLE TIME MEMBER**

ORDER

Under Sections 11(1), 11(4), 11A and 11B of the Securities and Exchange Board of India Act, 1992, in the matter of Angel Allied India Limited; its Directors, Viz. Shri Sekh Nazibulla (DIN: 0310943), Shri Santosh Kumar Mishra (DIN: 05115503), Shri Devid Haslaf (DIN: 06594846), Shri Sandip Pal (DIN: 05115495) and the Debenture Trustee, viz. Angel Economic Debenture Trust (represented by its trustee Shri. Succhhanda Ghosh)

1. Securities and Exchange Board of India (“SEBI”) received a letter dated November 25, 2013 and January 04, 2014 from some investors of Angel Allied India Ltd. (hereinafter referred to as “AAIL” or “the company”) alleging that AAIL mobilised monies from public by issuing Non-Convertible Secured Redeemable Debentures (“NCDs”). In the meantime, Reserve Bank of India (“RBI”), vide its letter dated March 06, 2014, too forwarded the complaint received from these investors of AAIL. The information/documents received from the complainants and forwarded by RBI is as given below:
 - i. Photocopy and prospectus/brochure of the AAIL;
 - ii. Copy of certificate of incorporation of the company;
 - iii. Photocopies of deposit plans and commission chart;
 - iv. List of investors in debentures issued by the company;
 - v. Copies of 2 debenture certificates and 2 receipts.
2. Thereafter, SEBI, vide letter dated February 21, 2014 to the then directors of AAIL viz. Shri Sekh Nazibulla, Shri Santosh Kumar Mishra and Shri Sandip Pal, sought information regarding Memorandum and Articles of Association, details of directors, copies of audited financial statements, annual returns of the company, details regarding debentures issued by the company since incorporation and brochures, pamphlets etc. issued by AAIL for issuance of debentures. It is noted that the letters to Shri Santosh Mishra and Shri Nazibulla returned undelivered while Shri Sandip Pal has not responded.

3. Information was also sought from the Registrar of Companies (“RoC”), Punjab and Chandigarh vide letter dated February 12, 2014. RoC vide its letter No. R/16878/2947 dated March 13, 2014 forwarded the following documents:
 - (i) Memorandum and articles of Association
 - (ii) Form 1 filed on 30/08/2012
 - (iii) Form 18 filed on 30/08/2012
 - (iv) Form 32 filed on 30/08/20012
 - (v) Form 20 filed on 31/08/2012
 - (vi) Form 32 dated 17/02/2014
4. It is noted that there were no filings regarding the amount mobilised and number of investors to whom debentures were allotted, therefore information was once again sought from RoC vide SEBI letter dated July 14, 2014. RoC vide their letter dated July 16, 2014 forwarded Form 10 dated 04/09/2012 (for registration of charges for debentures) and a copy of trust deed filed by AAIL with RoC. It is observed from Form 10 and a trust deed that a charge of Rs. 20 Crores was created on September 04, 2012 on immovable and movable properties of AAIL in favour of Angel Economic Debenture Trust (represented by its trustee Shri. Succhanda Ghosh).
5. As no reply was received from directors of AAIL, SEBI attempted to contact the complainants over phone and requested the complainants to provide details of number of allottees and amount mobilised by AAIL.
6. SEBI received a letter dated August 21, 2014 from these complainants forwarding the following documents:
 - (a) Form 1 and incorporation documents of AAIL.
 - (b) Form 10 dated 04/09/2012
 - (c) Copies of Brochure and application forms issued by AAIL for issuance of Non-Convertible Secured Redeemable Debentures.
 - (d) Copies of 186 debentures certificates and 163 receipts issued by AAIL.
7. Efforts were also made to obtain the information from Ministry of Corporate Affairs' Website i.e. MCA21 portal.
8. The material available on record i.e. information/documents obtained from RoC; information/documents obtained from RBI; information/documents obtained from the

Ministry of Corporate Affairs' website i.e. '*MCA 21 Portal*' and information/documents obtained from the complainants have been perused. On an examination of the same, it is observed that:

- i. AAIL (CIN: U17112PB2012PLC036612) was incorporated on August 31, 2012 with the RoC, Chandigarh having its registered office at C/o Kartar Singh, 18811, B11, Khud Mohalla, Habib Road, Khud Mohalla, Ludhiana, Punjab, India- 141008.
- ii. The present directors of the company are Shri Sekh Nazibulla, Shri Santosh Kumar Mishra and Shri Devid Haslaf. Shri Sandip Pal was the past director of the company.
- iii. It is observed from the copies of minutes of board resolution and minutes of EGM of shareholders filed by AAIL with RoC, the board of directors and Shareholders of the company in their meeting on September 04, 2012 authorised the company to issue Non-Convertible Secured Redeemable Debentures upto a limit of Rs.20 Crores.
- iv. It is noted from the brochure/application form of AAIL that the company is issuing Non-Convertible Redeemable Secured Debentures for Rs.200 Crores and that the minimum application amount for issue and allotment of NCDs shall be Rs.1000/- and all the applications to be made in multiples of 10. As per the application form the issue of debentures opened on September 10, 2012. Further, it is also mentioned in the application form that AAIL is in the process of acquiring Thind Finance Ltd. It is observed from RBI website that Thind Finance Ltd was registered as NBFC with RBI. However, RBI has cancelled its certificate of registration as NBFC with effect from May 09, 2014. RBI vide letter dated March 06, 2014 also informed that AAIL is not registered with RBI as Non-Banking Finance Institution ('NBFC').
- v. It is also observed that AAIL filed the shareholders resolution and board of directors resolution dated September 04, 2012 with RoC in respect of issue of NCDs for Rs.20 Crores. AAIL also filed with RoC the application form for issuance of NCDs, trust deed and various plans mentioning the return that would accrue to the investors. Various plans given in the application forms are as given below:

Plan A(12Months)

MD	T/D	Per iod	M/V
100	1200	13	1400
200	2400	13	2800
300	3600	13	4200
500	6000	13	7000
1000	12000	13	14000

Plan B(24Months)

MD	T/D	Peri od	M/V
100	2400	25	2900
200	4800	25	5800
300	7200	25	8700
500	12000	25	14500
1000	24000	25	29000

Plan –C (36 Months)

MD	T/D	Peri od	M/V
100	3600	37	5000
200	7200	37	10000
300	10800	37	15000
500	18000	37	25000
1000	36000	37	50000

Plan D(48Months)

MD	T/D	Pe riod	M/V
100	4800	49	7000
200	9600	49	14000
300	14400	49	21000
500	24000	49	35000
1000	48000	49	70000

Plan E(60Months)

MD	T/D	Peri od	M/V
100	6000	61	10500
200	12000	61	21000
300	18000	61	21500
500	30000	61	52500
1000	60000	61	105000

Plan –F (84 Months)

MD	T/D	Peri od	M/V
100	8400	85	14000
200	16800	85	28000
300	25200	85	42000
500	33600	85	56000
1000	42000	85	70000

Cumulative Deposit Plan

Plan	A	B	C	D	E	F	G
Issue Price Minimum 10 debentures @100 per debenture (100X10)	1000/-	1000/-	1000/-	1000/-	1000/-	1000/-	5000/-
Redemption Period	3 yrs	4.10yrs	8yrs	10yrs	12yrs	14.6yrs	16.8yrs
Redemption Premium	500/-	1000/-	3000/-	5000/-	9000/-	14000/-	95000/-
Redemption Amount	1500/-	2000/-	4000/-	6000/-	10000/-	15000/-	100000/-

Cumulative M. I. Deposit Plan

Plan	A	B	C
Redemption Period	2 years	3 years	5 years
Issue Price Minimum	10000	10000	10000
Monthly Return	140	160	200
Maturity Bonus	Nil	Nil	5%

- vi. Further, on perusal and analysis of debenture certificates and receipts forwarded by the complainant investors vide letter dated August 21, 2014, it is observed as follows:

Copies of NCD Certificates forwarded by complainants

Particulars	Details
No. of certificates of NCDs allotted received from complainants	186
No. of investors to whom NCDs allotted by AAIL (by Folio Number)	186
No. of investors to whom NCDS allotted by AAIL (name-wise)	162*
No. of total NCDs issued	76510
Amount mobilised (@Rs100/- each for NCD) from the complainants.	=76510*100= Rs.76,51,000/-

Copies of Receipts issued by AAIL forwarded by complainants

Particulars	Details
No. of receipts issued by AAIL received complainants.	163
No. of investors (name-wise)	137*
Amount mentioned in receipts forwarded by complainants	Rs.18,64,700/-

** There are 19 common investors. However, the amounts mentioned on the receipts issued to them do not match with invested amount mentioned on the copies of certificates of NCDs.*

The above table provides a summary of the copies of debenture certificates and receipts received from complainants and it is observed that the number of investors who have invested in debentures issued by AAIL or in various other plans of AAIL is more than 50. It is also observed that the complainants have been able to produce 186 debenture certificates issued to 162 investors. The complainants have also furnished 163 receipts issued by AAIL to 137 investors as proof of money mobilised from public.

- vii. In addition, SEBI also received complaints in the months of October and November 2014 from another 54 investors. It is observed from copies of certificates of NCDs and receipts issued by the company to these investors that AAIL mobilized Rs.8.00 lakhs from them.

- viii. Thus, it is observed that AAIL allotted NCDs to at least 334 (162+137+54-19) investors (*There are 19 common investors. For details, please refer para 8(vi) above*) and mobilized Rs.1,03,15,700/- (Rs.76,51,000+Rs.18,64,700+Rs.8,00,000) from them.
- ix. It is important to mention that the amount mobilised through issue of debentures and number of allottees is most likely to be more than what has been furnished by the complainants. AAIL has also not filed any financial statements indicating amounts mobilised and number of allottees on MCA 21 portal.
9. In the context of the abovementioned details of the Offer of NCDs, the issue for determination in the instant matter is whether the mobilization of funds by AAIL through the aforesaid Offer, is in accordance with the provisions of the SEBI Act, 1992 ("**SEBI Act**") read with the SEBI (Issue and Listing of Debt Securities), Regulations, 2008 ("**Debt Securities Regulations**"); the Companies Act, 1956.
10. The jurisdiction of SEBI over various provisions of the Companies Act in the case of public companies, whether listed or unlisted, when they issue and transfer securities at the relevant time flows from the provisions of Section 55A of the Companies Act, 1956. While examining the scope of Section 55A of the Companies Act, 1956, the Hon'ble Supreme Court of India in ***Sahara India Real Estate Corporation Limited & Ors. vs. SEBI (Civil Appeal no. 9813 of 2011) (Judgment dated August 31, 2012)*** (hereinafter referred to as the "**Sahara Case**"), had observed that:
- "We, therefore, hold that, so far as the provisions enumerated in the opening portion of Section 55A of the Companies Act, so far as they relate to issue and transfer of securities and non-payment of dividend is concerned, SEBI has the power to administer in the case of listed public companies and in the case of those public companies which intend to get their securities listed on a recognized stock exchange in India."*
11. In this regard –
- i. Reference is also made to Sections 67(1) and 67(3) of the Companies Act, 1956, which are reproduced as under:
- "67. (1) Any reference in this Act or in the articles of a company to offering shares or debentures to the public shall, subject to any provision to the contrary contained in this Act and subject also to the*

provisions of sub-sections (3) and (4), be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(2) Any reference in this Act or in the articles of a company to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be construed as including a reference to invitations to subscribe for them extended to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(3) No offer or invitation shall be treated as made to the public by virtue of sub-section (1) or sub-section (2), as the case may be, if the offer or invitation can properly be regarded, in all the circumstances-

(a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation; or

(b) otherwise as being a domestic concern of the persons making and receiving the offer or invitation ...

Provided *that nothing contained in this sub-section shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more:*

Provided further *that nothing contained in the first proviso shall apply to non-banking financial companies or public financial institutions specified in section 4A of the Companies Act, 1956 (1 of 1956)."*

- ii. While examining the scope of Section 67 of the Companies Act, 1956, the Hon'ble Supreme Court of India in the *Sabara Case* observed that:

"Section 67(1) deals with the offer of shares and debentures to the public and Section 67(2) deals with invitation to the public to subscribe for shares and debentures and how those expressions are to be understood, when reference is made to the Act or in the articles of a company. The emphasis in Section 67(1) and (2) is on the "section of the public". Section 67(3) states that no offer or invitation shall be treated as made to the public, by virtue of subsections (1) and (2), that is to any section of the public, if the offer or invitation is not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation or otherwise as being a domestic concern of the persons making and receiving the offer or invitations. Section 67(3) is, therefore, an exception to Sections 67(1) and (2). If the circumstances mentioned in clauses (1) and (b) of Section 67(3) are satisfied, then the offer/invitation would not be treated as being made to the public.

The first proviso to Section 67(3) was inserted by the Companies (Amendment) Act, 2000 w.e.f. 13.12.2000, which clearly indicates, nothing contained in Sub-section (3) of Section 67 shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more. ...

Resultantly, after 13.12.2000, any offer of securities by a public company to fifty persons or more will be treated as a public issue under the Companies Act, even if it is of domestic concern or it is proved that the shares or debentures are not available for subscription or purchase by persons other than those receiving the offer or invitation. ...

I may, therefore, indicate, subject to what has been stated above, in India that any share or debenture issue beyond forty nine persons, would be a public issue attracting all the relevant provisions of the SEBI Act, regulations framed thereunder, the Companies Act, pertaining to the public issue. ..."

- iii. In the instant matter, for ascertaining whether the Offer of NCDs is a public issue or an issue on private placement basis in accordance with Section 67 of the Companies Act, 1956, the number of subscribers is of the utmost importance.
 - a. It is observed from the copies of certificates of NCDs issued by AAIL that the company issued NCDs to at least 334 allottees and mobilized Rs.1.03 Crores from them. NCDs have thus been issued and subscribed by more than forty nine persons. It is important to note that the number of allottees (i.e. 334) and amount raised under the Offer of NCDs (i.e. Rs.1.03 Crores) have been arrived at by merely collating data from the complaints received against AAIL. No details have been provided by the directors of AAIL despite being given an opportunity to do so. It is also pertinent to note that a charge has been created for an amount as high as Rs.20 Crores. It is therefore most likely that the number of investors who invested in the NCDs as also the amount raised could be many times more than what has only been collated solely from the complaints received. In the brochure issued by AAIL, it has been mentioned that NCDs were being issued on a private placement basis. However, the company and its directors have failed to provide any documents to substantiate their claim that the said issue of debentures was a private placement. Merely mentioning that an issue is on a private placement basis does not make it such. Based on the facts available in this case, including in particular the number of persons to whom the NCDs have been issued by AAIL,

the only conclusion can be that issue was nothing but a public issue of securities in terms of provisions of Section 67(3) of the Companies Act, 1956.

- b. AAIL is not stated to be a non-banking financial company or a public financial institution within the meaning of Section 4A of the Companies Act and therefore, is not covered under the second proviso to Section 67(3).
- c. It is pertinent to note that by virtue of Section 55A of the Companies Act 1956, Section 67 of that Act, so far as it relates to issue and transfer of securities, shall also be administered by SEBI.

12. I note that –

- i. From the abovementioned, it will follow that since the *Offer of NCDs* is a public issue of securities, such securities shall also have to be listed on a recognized stock exchange, as mandated under Section 73 of the Companies Act, 1956. In this regard, reference is made to Sections 73 of the Companies Act, 1956, of which sub-Sections (1), (2) and (3) are relevant for the instant case, which is reproduced as under:

"73. (1) Every company intending to offer shares or debentures to the public for subscription by the issue of a prospectus shall, before such issue, make an application to one or more recognised stock exchanges for permission for the shares or debentures intending to be so offered to be dealt with in the stock exchange or each such stock exchange.

(1A) Where a prospectus, whether issued generally or not, states that an application under sub-section (1) has been made for permission for the shares or debentures offered thereby to be dealt in one or more recognised stock exchanges, such prospectus shall state the name of the stock exchange or, as the case may be, each such stock exchange, and any allotment made on an application in pursuance of such prospectus shall, whenever made, be void, if the permission has not been granted by the stock exchange or each such stock exchange, as the case may be, before the expiry of ten weeks from the date of the closing of the subscription lists :

Provided *that where an appeal against the decision of any recognised stock exchange refusing permission for the shares or debentures to be dealt in on that stock exchange has been preferred under section 22 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), such allotment shall not be void until the dismissal of the appeal.*

(2) Where the permission has not been applied under subsection (1) or such permission having been applied for, has not been granted as aforesaid, the company shall forthwith repay without interest all moneys received from applicants in pursuance of the prospectus, and, if any such money is not repaid within eight days after the company becomes liable to repay it, the company and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at such rate, not less than four per cent and not more than fifteen per cent, as may be prescribed, having regard to the length of the period of delay in making the repayment of such money.

(3) All moneys received as aforesaid shall be kept in a separate bank account maintained with a Scheduled Bank until the permission has been granted, or where an appeal has been preferred against the refusal to grant such permission, until the disposal of the appeal, and the money standing in such separate account shall, where the permission has not been applied for as aforesaid or has not been granted, be repaid within the time and in the manner specified in sub-section (2); and if default is made in complying with this sub-section, the company, and every officer of the company who is in default, shall be punishable with fine which may extend to fifty thousand rupees."

- ii. In the *Sabara Case*, the Hon'ble Supreme Court of India also examined Section 73 of the Companies Act, 1956, wherein it observed :

"Section 73(1) of the Act casts an obligation on every company intending to offer shares or debentures to the public to apply on a stock exchange for listing of its securities. Such companies have no option or choice but to list their securities on a recognized stock exchange, once they invite subscription from over forty nine investors from the public. If an unlisted company expresses its intention, by conduct or otherwise, to offer its securities to the public by the issue of a prospectus, the legal obligation to make an application on a recognized stock exchange for listing starts. Sub-section (1A) of Section 73 gives indication of what are the particulars to be stated in such a prospectus. The consequences of not applying for the permission under sub-section (1) of Section 73 or not granting of permission is clearly stipulated in sub-section (3) of Section 73. Obligation to refund the amount collected from the public with interest is also mandatory as per Section 73(2) of the Act.

Listing is, therefore, a legal responsibility of the company which offers securities to the public, provided offers are made to more than 50 persons.

...

Section 73(2) says that every company and every director of the company who is an officer in default, shall be jointly and severally liable to repay that money with interest at such rate, not less than four

per cent and not more than fifteen per cent, as may be prescribed. The scope of the above mentioned provisions came up for consideration before this Court in Raymond Synthetics Ltd. & Ors. V. Union of India (supra), wherein the Court held that in a case where the company has not applied for listing on a stock exchange, the consequences will flow from the company's disobedience of the law, the liability to pay interest arises as from the date of receipt of the amounts, for the company ought not to have received any such amount in response to the prospectus. I am, therefore, of the view that since Saharas had violated the listing provisions and collected huge amounts from the public in disobedience of law, SEBI is justified in directing refund of the amount with interest."

- iii. Having regard to the abovementioned observations of the Hon'ble Supreme Court of India, since the *Offer of NCDs* is *prima facie* a public issue in accordance with the provisions of the Companies Act, 1956, the same will attract the requirement of compulsory listing before a recognized stock exchange in terms of Section 73(1) of the Companies Act, 1956 and also compliance with provisions of Sections 73(2) and 73(3) of that Act.
 - iv. In the facts of the instant case, it *prima facie* appears that AAIL has violated the provisions of Section 73 of the Companies Act, 1956, in respect of the *Offer of NCDs*.
13. Under Section 2(36) read with Section 60 of the Companies Act, 1956, a company needs to register its prospectus with the RoC, before making a public offer or issuing the prospectus. As per the aforesaid Section 2(36), "*prospectus*" means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate. As mentioned above, since the *Offer of NCDs* was made to fifty persons or more, it has to be construed as a public offer. Having made a public offer, AAIL was required to register a prospectus with the RoC under Section 60 of the Companies Act, 1956. In the instant case, there is no evidence on record to indicate whether or not AAIL has filed a prospectus. In view of the same, I find that *prima facie*, AAIL has not complied with the provisions of Section 60 of Companies Act, 1956.
 14. Under Section 56(1) of the Companies Act, 1956, every prospectus issued by or on behalf of a company, shall state the matters specified in Part I and set out the reports

specified in Part II of Schedule II of that Act. Further, as per Section 56(3) of the Companies Act, 1956, no one shall issue any form of application for shares in or debentures of a company, unless the form is accompanied by abridged prospectus, contain disclosures as specified. Based on the material available on record, I find that AAIL has not complied with the provisions of Section 56(1) and 56(3) of the Companies Act, 1956 and therefore *prima facie*, has violated the aforesaid provisions.

15. Under Section 117B of the Companies Act, 1956, no company shall issue a prospectus or a letter of offer to the public for subscription of its debentures, unless it has, before such issue, appointed one or more debenture trustees for such debentures and the company has, on the face of the prospectus or the letter of offer, stated that the debenture trustee or trustees have given their consent to the company to be so appointed. Based on the material available on record, I find that AAIL has not complied with the provisions of Sections 117B of the Companies Act, 1956 and therefore, has *prima facie* violated the aforesaid provisions.

Section 12(1) of the SEBI Act states: "*No... trustee of trust deed ... 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*". Angel Economic Debenture Trust (represented by its trustee Shri. Succhhanda Ghosh) are not registered with SEBI. Further, Regulation 7 of SEBI (Debenture Trustees) Regulations, 1993 ("**Debenture Trustees Regulations**"), provides that: "*no person should act as a debenture trustee unless he is either –*

- i. a scheduled bank carrying on commercial activity; or*
- ii. a public financial institution within the meaning of section 4A of the Companies Act, 1956; or*
- iii. an insurance company; or*
- iv. body corporate."*

Based on the material available on record, I find that Angel Economic Debenture Trust (represented by trustee Shri. Succhhanda Ghosh) has *prima facie*, failed to meet the eligibility criteria specified under the provisions of the Debenture Trustees Regulations and therefore, has acted as unregistered Debenture Trustees, which amounts to violation of the abovementioned provisions of the SEBI Act read with the Debenture Trustee Regulations.

16. Further, under Section 117C of the aforesaid Act, where a company issues debentures, it shall create a debenture redemption reserve for the redemption of such debentures, to which adequate amounts shall be credited, from out of its profits every year until such debentures are redeemed. Based on the material available on record, there is no evidence to indicate whether AAIL has complied with the provisions of Sections 117C of the Companies Act, 1956 and therefore, has *prima facie* violated the aforesaid provisions.
17. In addition to the above, reference may be made to the Debt Securities Regulations, which were framed by SEBI in exercise of its powers under Section 30 of the SEBI Act and are applicable to the public issue and listing of debt securities. It may be relevant to note that under the aforesaid Regulations, 'debt securities' have been defined as '*non-convertible debt securities which create or acknowledge indebtedness, and include debenture...*' In this context, I find that AAIL, through the *Offer of NCDs*, which is a public issue of debt securities, has *prima facie* violated the following provisions of the aforesaid Regulations, which contain *inter alia* conditions for public issue and listing of debt securities, viz.
- i. Regulation 4(2)(a) – *Application for listing of debt securities*
 - ii. Regulation 4(2)(b) – *In-principle approval for listing of debt securities*
 - iii. Regulation 4(2)(c) – *Credit rating has been obtained*
 - iv. Regulation 4(2)(d) – *Dematerialization of debt securities*
 - v. Regulation 4(4) – *Appointment of Debenture Trustee*
 - vi. Regulation 5(2)(b) – *Disclosure requirements in the Offer Document*
 - vii. Regulation 6 – *Filing of draft Offer Document*
 - viii. Regulation 7 – *Mode of disclosure of Offer Document*
 - ix. Regulation 8 – *Advertisements for Public Issues*
 - x. Regulation 9 – *Abridged Prospectus and application forms*
 - xi. Regulation 12 – *Minimum subscription*
 - xii. Regulation 14 – *Prohibition of mis-statements in the Offer Document*
 - xiii. Regulation 15 – *Trust Deed*
 - xiv. Regulation 16 – *Debenture Redemption Reserve*
 - xv. Regulation 17 – *Creation of security*
 - xvi. Regulation 19 – *Mandatory Listing*
 - xvii. Regulation 26 – *Obligations of the Issuer, etc.*
18. Upon a consideration of the aforementioned paragraphs, I am of the view that AAIL is *prima facie* engaged in fund mobilising activity from the public, through the *Offer of NCDs*

and as a result of the aforesaid activity has violated the aforementioned provisions of the Companies Act, 1956 (Section 56, Section 60 read with Section 2(36), Section 73, Section 117B, Section 117C) and the Debt Securities Regulations.

19. SEBI has a statutory duty to protect the interests of investors in securities and promote the development of, and to regulate, the securities market. Section 11 of the SEBI Act has empowered it to take such measures as it thinks fit for fulfilling its legislative mandate. Further, as per the provisions of Section 55A of the Companies Act, 1956, administrative authority on the subjects relating to public issue of securities is exclusively with SEBI. For this purpose, SEBI can exercise its jurisdiction under Sections 11(1), 11A, 11B and 11(4) of the SEBI Act read with Section 55A of the Companies Act, 1956, over companies who issue *Non-Convertible Redeemable Debentures* to fifty persons or more, but do not comply with the applicable provisions of the aforesaid Companies Act and the Debt Securities Regulations. Steps therefore, have to be taken in the instant matter to ensure that only legitimate fund raising activities are carried on by AAIL and no investors are defrauded. SEBI's letters to the directors of AAIL have either been returned undelivered by postal authorities or have not been replied to. Further considering that AAIL is continuing to raise money from investors, I find that there is no other alternative but to take recourse through an interim action against AAIL and its past/present Directors along with its Debenture Trustee, viz. Angel Economic Debenture Trust (represented by trustee Shri. Succhanda Ghosh), for preventing the company from further carrying on with its fund mobilising activity under the *Offer of NCDs*. Considering all the factors in the instant case, it is felt that urgent intervention by SEBI is warranted as otherwise there could be every possibility of irreparable damage to investors.
20. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11A and 11B of the SEBI Act read with the Debt Securities Regulations and the Debenture Trustee Regulations, hereby issue the following directions –
 - i. AAIL shall forthwith cease to mobilize any fresh funds from investors through the *Offer of NCDs* or through the issuance of equity shares or any other securities, to the public and/or invite subscription, in any manner whatsoever, either directly or indirectly till further directions;
 - ii. AAIL and its past/present Directors, viz. Shri Sekh Nazibulla (DIN: 0310943), Shri Santosh Kumar Mishra (DIN: 05115503), Shri Devid Haslaf (DIN: 06594846) and

Shri Sandip Pal (DIN: 05115495), are prohibited from issuing prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, till further orders;

- iii. AAIL and its abovementioned Directors, are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in the securities market, either directly or indirectly, till further directions;
 - iv. AAIL shall provide a full inventory of all its assets and properties;
 - v. AAIL's abovementioned Directors shall provide a full inventory of all their assets and properties;
 - vi. AAIL and its abovementioned Directors shall not dispose of any of the properties or alienate or encumber any of the assets owned/acquired by that company through the *Offer of NCDs*, without prior permission from SEBI;
 - vii. AAIL and its abovementioned present Directors shall not divert any funds raised from public at large through the *Offer of NCDs*, which are kept in bank account(s) and/or in the custody of AAIL;
 - viii. AAIL shall furnish within 21 days from the date of receipt of this Order complete information as sought by SEBI vide letter dated February 21, 2014 including balance sheets of the company for FY 2011-12 to 2014-15.
 - ix. The Debenture Trustee, viz. Angel Economic Debenture Trust (represented by trustee Shri. Succhanda Ghosh), is prohibited from continuing the present assignment as a debenture trustee in respect of the *Offer of NCDs* of AAIL and also from taking up any new assignment or involvement in any new issue of debentures, etc. in a similar capacity, from the date of this order till further directions.
21. The above directions shall take effect immediately and shall be in force until further orders.
22. The *prima facie* observations contained in this Order are made on the basis of the material available on record i.e. information and documents obtained from RoC; information and documents obtained from RBI; information/documents obtained from the Ministry of Corporate Affairs' website i.e. '*MCA 21 Portal*'; complaints received and the documents enclosed therewith. In this context, AAIL and its abovementioned Directors are advised to show cause as to why suitable directions/prohibitions under Sections 11(1), 11(4), 11A

and 11B of the SEBI Act including the following, should not be taken/imposed against them:

- i. Directing them jointly and severally to refund the money collected through the Offer of NCDs along with interest, if any, promised to investors therein;
- ii. Directing them not to issue prospectus or any offer document or any advertisement for soliciting money from the public by issue of securities, in any manner whatsoever, either directly or indirectly, for an appropriate period;
- iii. Directing them to refrain from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period.

23. AAIL and its abovementioned Directors, may, within 21 days from the date of receipt of this Order, file their reply, if any, to this Order and may also indicate whether they desire to avail themselves of an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.
24. Similarly, the Debenture Trustee, viz. Angel Economic Debenture Trust (represented by trustee Shri. Succhhanda Ghosh), may, within 21 days from the date of receipt of this Order, file their reply, if any, to this Order and may also indicate whether they desires to avail an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.
25. This Order is without prejudice to the right of SEBI to take any other action that may be initiated against AAIL and its abovementioned Directors; its Debenture Trustee, viz. Angel Economic Debenture Trust (represented by trustee Shri. Succhhanda Ghosh), in accordance with law.

Place: Mumbai
Date: June 29, 2015

S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA