Report of
The
Committee
On
reallocation of shares
in the matter of
IPO irregularities

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Contents

Executive Summary

This is an executive summary of the Report of the Committee on re-allocation of shares in the matter of IPO irregularities

A. Background:

1. SEBI unearthed and investigated certain irregularities in Initial Public Offerings (IPO) from 2005. The irregularities involved the following steps:
   - Opening of a large number of DP (and bank) accounts in fictitious / benami names by certain individuals ("afferent accounts")
   - These accounts were controlled by and for the benefit of certain "key operators" and "financiers".
   - The funds used for subscription came from certain "financiers".
   - Applications were made using these afferent demat accounts and funds, in the retail quota of IPOs, so as to corner shares by using the favourable allotment chances for retail investors.

2. A Committee was set up under the Chairmanship of Justice D. P. Wadhwa, former Judge of the Supreme Court of India, to advise / recommend on the procedure of identification of persons who might have been deprived on account of such IPO irregularities and the manner in which reallocation of shares to such persons should take place.

B. **Principles**

The Committee after going through the terms of reference, background and analysis of the relevant data and facts came to a decision that the Committee needs to establish 3 principles as under:

a. To quantify the amount of unjust enrichment that has taken place, and which is the subject of reallocation.

b. To identify the genuine applicants who may be considered "deprived".

c. To decide a basis on which the unjust enrichment is to be reallocated amongst the "deprived" applicants.

C. Unjust gains and holdings in frozen demat accounts.

- The Committee has observed that the reallocation amount to the deprived applicants must be paid out of moneys that must first be recovered from those who unjustly benefited such as the key operators and financers. The Committee has observed that the total unjust gains works out to about Rs. 95.69 Crores across the 21 IPOs under consideration. The Committee also observed that the quantum of unjust gains based on allotment to afferent accounts is approximately Rs. 95.69 Crores, of which Rs. 91.42 Crores were identified as belonging to shares that were transferred to key operators/financiers.

- The Committee observed that the value of the holdings in the frozen demat accounts in both NSDL and CDSL of the key operators and financiers as on 31.10.07 works out to about Rs. 1,478,536,264.06 (Rs.147.85 Crores). The balance in the bank accounts of operators / financiers frozen by CBI is Rs.12,069,085.90 (Rs. 1.2 Crores). The total amount outstanding in these demat and bank accounts is Rs.1,490,605,349.96 (Rs. 149.06 Crores).

- SEBI may like to decide based upon the status of legal proceedings whether this amount is immediately recoverable and if so whether it can be distributed among the deprived applicants.

D. Deliberations and Recommendations

The Committee deliberated over several sittings over a period of six months. The Committee invited relevant parties and experts from various organizations to update itself about facts and to take inputs on the various options available to fulfill the task. Based upon these deliberations and inputs received, the Committee makes these recommendations:

- All these afferent applications were made in the retail category of IPOs. To the extent these fictitious "afferent applicants" were allotted shares, genuine investors were deprived of their chance to secure allotment. The Committee, therefore, quantifies the unjust enrichment in the case of each IPO to be the gain associated with the number of shares allotted to "afferent" applicants. The key operators / financiers who cornered the shares in retail category through afferent demat accounts realized the gain amounting to the difference between the IPO issue price and the listing price.

- It may not be possible to get the requisite number of shares from the market or available funds may not be sufficient to purchase the requisite number of shares at the current market price.

- The reallocation should therefore be quantified in monetary terms and the reallocation value for each "deprived applicant" should be initially computed based upon shares but subsequently converted into the amount of gains associated with such shares.

- The Committee recommends that for the purpose of reallocation or payment to these deprived applicants, the amount which is the difference of closing price of shares on the first day of listing / trading at NSE and the IPO issue price will be considered. These applicants will

not be entitled for the market price movements subsequent to the listing.

- All genuine applicants, whether successful or not, were deprived to some extent. The Committee concluded that the following are the categories of deprived applicants, listed in the order of the "degree of deprivation":
  - The most deprived applicants are those who were entirely unsuccessful in receiving any allotment at all.
  - The next were partial allottees in the firm categories.
  - The last in this sequence were partial allottees in drawal of lots categories.

- On the question of reallocation of shares, the Committee recommends a "spillover" method of reallocation. Under this method, totally unsuccessful applicants shall be reallocated shares equally from the afferent pool, till they each receive the minimum shares allotted to the lowest category in the IPO. Once that number is reached, any afferent shares left over shall "spill over" and be reallocated to the partly successful applicants in the firm category and thereafter to the partly successful applicants in drawal of lots categories.

- The Committee has also made certain operational suggestions in the body of the report to facilitate an efficient implementation.

E. Limitations:

- The Committee has made a set of recommendations being aware that the facts as currently prevailing are disputed, and that the ultimate facts could be different. The Committee presently believes and hopes, on the basis of documents perused, that the final facts will not be so different as to negate these recommendations.

- Legal proceedings relating to these key operators, financiers and intermediaries are pending before various fora; and until their conclusion it may not be possible to determine the quantum of unjust enrichment and the number of deprived applicants accurately. It may not also be possible to recover any assets from any of these entities until then. Therefore, the recommendations of this Committee are stated as principles, and illustrated with examples based upon facts as they currently stand. The actual implementation of these recommendations will be based upon the facts as they finally prevail.

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REPORT OF THE COMMITTEE FOR RE-ALLOCATION OF SHARES IN THE MATTER OF IPO IRREGULARITIES.

1.0 Constitution of the Committee

1.1 Chairman, Securities and Exchange Board of India (SEBI) vide notification dated 05.07.2007 constituted a Committee under the Chairmanship of **Justice D. P. Wadhwa**, former judge of the Supreme Court of India to advise / recommend on the procedure for identification of persons who might have been deprived on account of the Initial Public Offering (IPO) irregularities and the manner in which reallocation of shares to such persons should take place.

The other members of the Committee are as follows:

Shri R. Sridharan, Managing Director & Chief Executive Officer, SBI Capital Markets Ltd.

Shri V. Shankar, Managing Director, Computer Age Management Services Pvt. Ltd.

Shri Virendra Jain, Director, Midas Touch Investors Association.

Shri Ananta Barua, Legal Advisor, SEBI, Member Secretary.

A copy of the notification dated 05.07.2007 is attached as **Annexure '1'.**

1.2 The Committee was given time upto 03.10.2007 to submit its report / recommendation. The tenure of the Committee was extended upto 05.12.2007 vide notification dated 05.10.2007. A Copy of the notification dated 08.10.2007 is attached as **Annexure '2A'**. The tenure of the Committee was further extended upto 20.12.2007 vide

notification dated 30.11.2007. A Copy of the notification dated 30.11.2007 is attached as **Annexure '2B'**.

1.3 At the outset, the Committee decided upon the process to be followed in its deliberations:

- To take note of the background of the IPO irregularities.
- To take note of various proceedings initiated / pending in the matter of IPO irregularities.
- A representative single IPO will be taken up for detailed analysis.
- Deliberations will be conducted upon the facts of that IPO and with inputs received from experts.
- The emerging recommendations will be validated against the facts of all the 21 IPOs to ensure that they produce in each case, a fair, consistent and transparent result.

1.4 The Committee perused the background of the IPO irregularities, IPO allotment processes, various orders passed by SEBI, Securities Appellate Tribunal (SAT), proceedings initiated by other authorities relating to these IPO irregularities etc. The Committee also called for discussion, the SEBI officer dealing with these IPO irregularities, officers of the enforcement dept., officials from Central Bureau of Investigation (CBI) and stock exchanges and public representatives. The Committee also perused and analyzed various data relating to the allotment process in respect of 21 IPOs. The Committee conducted its deliberations in meetings held over a period of six months.

2.0 Background

2.1 As a part of ongoing surveillance activity by SEBI into the various aspects of functioning of the securities market, SEBI had initiated a probe and advised the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE) to look into dealings in the shares issued through

IPOs before these shares are listed on the stock exchanges. In October 2005, the stock exchanges submitted their preliminary observations on the IPO of Yes Bank Ltd. (YBL) to SEBI, which hinted at the possibility of large-scale off-market transactions immediately following the date of allotment and prior to the listing of shares on the stock exchanges. SEBI, therefore, carried out a preliminary scrutiny by calling for data from the Depositories and the Registrars to the Issues (RTIs). It was observed by SEBI that a large number of multiple dematerialized accounts with common addresses were opened by a few entities. On noticing the irregularities, SEBI, vide ex-parte interim order dated December 15, 2005 in the matter of Yes Bank IPO, acted against the entities responsible for the irregularities by passing an interim order restraining them from participating in all future IPOs and also directing the depositories to freeze their dematerialized accounts effectively.

2.2 Thereafter, SEBI examined the irregularities in the IPO of Infrastructure Development Finance Co. Ltd. (IDFC) wherein the very same players were suspected to have played a major role in cornering the shares in retail category. Pursuant to the preliminary scrutiny, SEBI issued an ad interim order dated January 12, 2006 in the case of IDFC IPO.

2.3 In the course of investigations pursuant to interim orders in the cases of Yes Bank and IDFC, SEBI had noticed that some of these multiple demat accounts were opened in June 2003. The misuse of these multiple demat accounts in Initial Public Offerings (IPOs) prior to that of Yes Bank and IDFC were accordingly looked into by SEBI.

2.4 Accordingly, SEBI broadened its investigations to all IPOs between 2003-2005. The names of the 21 IPOs during the above period where similar irregularities were noticed, are given in para 4.0 of this report. Based on the findings of these investigations, SEBI, vide interim order dated April 27, 2006, *inter alia*, directed 24 key operators and 82

financiers not to buy, sell or deal in the securities market including in IPOs, directly or indirectly, till further directions.

3.0 The Modus Operandi

3.1 Investigations by SEBI into the irregularities relating to IPOs during 2003-2005 (including Yes Bank and IDFC IPOs) have since been completed. After completion of investigations, SEBI has initiated appropriate proceedings against the key operators, financiers and other entities.

3.2 From SEBI interim order's / proceedings, the mode of operation by the key operators and financers could be ascertained which in brief is given in para 3.3.

3.3 SEBI (Disclosure & Investor Protection) Guidelines, 2000 (DIP Guidelines) prescribe a quota for small investors wishing to invest in the IPO market. A small investor is defined as one who applies for allotment of shares worth Rs.100,000 or less (Rs.50,000 previously). Typically, the over-subscription in the retail segment of an IPO is substantially less than the over-subscription in the non-retail segment for sought after IPOs. Therefore, chances of securing an allotment under the retail segment are normally better than in the non-retail segments. Consequent to the preliminary scrutiny, SEBI found that certain entities (termed as key operators by SEBI) had cornered IPO shares reserved for retail applicants by making applications in the retail category through the medium of thousands of fictitious / benami applicants, with each application being for small value so as to be eligible for allotment under the retail category. Such demat accounts in fictitious / benami names could be opened by the key operators due to negligence or connivance of certain intermediaries. Subsequent to the receipt of IPO allotments, these fictitious / benami allottees had

transferred shares to their principals who in turn transferred the shares to the financiers, (directly or through a web of transactions) who had originally made available the funds for executing the game-plan. The financiers in turn sold most of these shares on the first day of listing thereby realizing the gain amounting to the difference between the IPO issue price and the listing price.

3.4 SEBI, therefore, decided that the possibility of reallocating these shares (allotted to the afferent applicants) to the persons who had been unjustly deprived of allotment, on account of the irregularities mentioned above, should be examined and constituted the Committee for the purpose.

4.0 The 21 IPOs

4.1 SEBI found that IPO irregularities where such off-market transfers of shares soon after allotment and before listing pertained to 21 IPOs during 2003-2005. The list of IPOs where such irregularities or off market transfers were detected by SEBI, are as under:

1. Amar Remedies Ltd.
2. Datamatics Technologies Ltd.
3. Dishman Pharma. & Chemicals Ltd.
4. FCS Software Solutions Ltd.
5. Gateway Distriparks Ltd.
6. Gokaldas Exports Ltd.
7. ILFS Investmart Ltd.
8. Indraprastha Gas Ltd.
9. Infrastructure Development Finance Co. Ltd. (IDFC)
10. Jet Airways (India) Ltd.
11. Nandan Exim Ltd.
12. National Thermal Power Corporation Ltd.
13. Nectar Lifesciences Ltd.
14. Patni Computer Systems Ltd.
15. Sasken Communication Technologies Ltd.
16. Shoppers Stop Ltd.
17. SPL Industries Ltd.
18. Suzlon Energy Ltd.

19.T.V.Today Network Ltd.
20.Tata Consultancy Services Ltd.
21.Yes Bank Ltd.

4.2 The deliberations and analyses of the Committee were confined to these 21 IPOs for the purpose of recommending the principles for reallocation. The Committee called for certain information / data such as the issue size, issue price, listing date, closing price on the listing date, etc., in respect of these 21 IPOs. A table containing these details is annexed as **Annexure '3'** to this report.

4.3 The Committee was informed that all the 21 IPOs were oversubscribed. From the table in Annexure 3, the Committee observed that the closing price on the date of listing in respect of these 21 IPOs were higher than the respective issue price in each case. The Committee was informed that the closing price on listing date as given in the table in Annexure 3 in respect of the 21 IPOs has been taken from the closing price as on the day of listing at NSE. The Committee observed that the closing price in respect of some IPOs such as in the case of Dishman Pharma & Chemical Ltd. was much higher, where the issue price was Rs.175 and closing price on the day of listing was Rs.541.25. In other IPOs the closing price on the day of listing was higher than the issue price in varying degrees. Thus the key operators / financiers who cornered the shares in retail category through afferent demat accounts, realized the gain on account of the difference between the IPO issue price and the listing price through the modus operandi as given in para 3.3 of this report.

5.0 Action initiated by SEBI / CBI / RBI.

5.1 The Committee was informed that various proceedings have been initiated by different authorities such as SEBI, CBI and Reserve Bank of India (RBI) against key operators, financiers, intermediaries, banks etc. in respect of IPO irregularities. The Committee perused the following information / documents / orders.

a. RBI order to banks in respect of IPO irregularities in connection with non-compliance of Know Your Client (KYC) norms, opening of bank accounts in fictitious names, etc.

b. Complaints lodged with CBI by SEBI in respect of IDFC and YES Bank IPO issues, frauds by key operators / financiers etc.

c. Copy of charge sheet filed by CBI in the case of IDFC IPO against key operators / financiers.

d. Status and copy of the complaint filed in IPO irregularities by the prosecution division of SEBI.

e. Status of all quasi-judicial proceedings initiated by SEBI in IPO irregularities and copies of orders of Adjudicating Officers (AOs), SEBI, SAT, High Courts (HC) etc.

5.2 The officials of SEBI and CBI apprised the Committee about these proceedings. Shri Suryavanshi, Inspector of Police, CBI appeared before the Committee on 15.09.2007. He stated that CBI has arrested some operators and financiers located in Ahmedabad and Mumbai in respect of the irregularities in Yes Bank and IDFC IPOs. He stated that the bank accounts of the operators / financiers, containing funds to the extent of about Rs. 2 crores have been frozen by CBI and CBI has got the necessary court orders for retaining the funds.

Shri Sanjay K. Sareen, DSP, of CBI on 06.11.2007 briefed the Committee about the charge sheet filed by CBI against 22 entities in the case of IDFC IPO irregularities before the Special Judge for CBI

cases, Greater Mumbai. The entities have been charged under Section 68A of the Companies Act and Section 420, 467, 468 & 471 of Indian Penal Code (IPC). Shri Sareen informed that CBI has also frozen bank accounts of five persons of whom three are accused under Section 102 of the Code of Criminal Procedure. It was stated that CBI has filed a similar charge sheet in the case of Yes Bank IPO irregularities as well. Shri. Sareen also stated that CBI investigated IPO irregularities in the cases of YES Bank and IDFC as SEBI filed complaint only in these two cases. He said that CBI, therefore, did not investigate irregularities in other IPOs.

5.3 Shri Pradeep Kumar, Legal Officer (LO), from the Enforcement Department (EFD), SEBI on 15.09.07 submitted the status of quasi judicial proceedings in IPO irregularity matters passed or pending before SEBI, Adjudication Officer and SAT as under:

a. Directions under Sections 11 and 11B of the SEBI Act such as restrictions in accessing the securities market, restrictions in opening fresh demat accounts, etc., against persons associated with the securities market including intermediaries.

b. Enquiry proceedings have been initiated by SEBI against registered intermediaries.

c. Adjudication proceedings have been initiated against operators, financiers and intermediaries. The Adjudicating Officer has passed certain adjudication orders imposing monetary penalty.

d. Prosecution has been proposed against entities such as operators, financiers, intermediaries, etc.

e. SEBI passed disgorgement order dated 21.11.2006 against depositories and depository participants (DP) who were jointly and severally directed to disgorge the amount of Rs.115.82 crores. The Committee was later on informed that the said order has since been set aside by SAT on 22.11.2007 and remanded back to SEBI.

f. Appeals filed before SAT challenging SEBI's interim /final orders / adjudication orders, etc. and stay granted by SAT.

5.4 Shri. Jai Prakash - L.O., Prosecution Division, SEBI on 15.09.07 stated that the complaints filed / to be filed against the key operators / financiers, etc., under Section 26 of the SEBI Act relate to the irregularities in the 21 IPOs alleging violation of Section 68A of the Companies Act, Regulations 3 of the SEBI (PFUTP) Regulations, Section 12A read with Section 24(1) of the SEBI Act and Section13 and Section 16 read with Section 23(1)(b) of Securities Contract Regulation Act, 1956 (SCRA).

5.5 Shri D V Sekhar, Deputy Legal Advisor, SEBI also attended the meeting of the Committee on 28th and 29th Nov. 2007 and he apprised the members on the status of complaints filed by SEBI under Sec. 24 and 26 of SEBI Act against various entities, involved in IPO irregularities.

5.6 The Committee was informed that some consent applications were received from the key operators, financiers and intermediaries allegedly involved in the IPO irregularities for consideration of the Consent Committee under the SEBI Consent Order Scheme dated 20.04.2007. Shri V R Prasad – Deputy Legal Adviser (DLA) attended the meeting of the committee on 28.11.07. He apprised the members about the status of various consent applications made by entities in

respect of IPO irregularities that are under consideration of SEBI Consent Committee.

5.7 The Committee was also apprised of some orders passed by RBI against some banks under Section 47(1) (b) of the Banking Regulation Act imposing monetary penalties over various banks. These penalties have been imposed by RBI on these banks for failure to adhere to KYC / Anti Money Laundering Law (AML) norms prescribed by RBI, while opening of bank accounts in fictitious names by key operators.

5.8 The Committee also had deliberations with officials of BSE, NSE and public representatives on 05.11.07. Mr. Ashok Raut-COO, BSE, Mr. Gopal Krishnan Iyer – DGM, Listing and Mr. S. Jambunathan – BSE's Ex-Chairman and public representative for the Yes Bank IPO participated in the deliberations. The officials of NSE Mr. K. Hari, A.V.P and Mr. Ravi Varanasi- AVP also participated in these deliberations.

5.9 Shri S. Jambunathan, Public Representative stated as under:

a. Any Scheme that is formulated to help the unlucky investors should be prepared in such a manner that it is transparent, fair and easy to communicate to the general public and also to implement.
b. We should not try to please everybody but prepare the Scheme keeping in mind the practical difficulties and the limitations and our past experience.
c. We should consider only the non-allottees, rather than the partial allottees for the simple reason that the partial allottees have had the "benefit of the market" from the shares already allotted to them.
d. The benefit being passed on to the non-allottees need not and should not be based on drawal of lots. Instead, it should be

distributed among all the non-allottees keeping in mind the resources available.

5.10 Shri Madhusudhanan, Asst. General Manager (AGM) – Integrated Surveillance Department (ISD), SEBI informed the Committee about the back ground, modus operandi, finding of investigation, interim and final orders passed by SEBI in IPO irregularities matter etc. He attended all the meetings / proceedings of Committee. He assisted the Committee in obtaining information and data and in preparation of various tables / statements annexed to the report.

6.0 Holdings in frozen demat accounts.

6.1 The Committee was informed that as per SEBI interim order dated 27.04.2006, depositories have frozen demat accounts of key operators and financiers.

6.2 The Committee called for data in respect of the holdings of key operators (numbering 21) and financiers (numbering 82) in the frozen demat accounts. The Committee also called for valuation of these holdings in the frozen demat accounts of operators and financiers as on 31.10.2007 and also the amount frozen by CBI in bank accounts of operators / financiers. A table containing the valuation of holdings in the demat accounts and bank accounts of operators / financiers frozen by CBI, as on 31.10.07 was presented to the Committee which is given in **Annexure 4.**

6.3 The Committee, from the table in Annexure 4, observed that the value of the holdings in the frozen demat accounts of the key operators and financiers in both NSDL and CDSL as on 31.10.07 works out to about Rs. 1,478,536,264.06 (Rs. 147.85 Crores). The balance lying in the frozen bank accounts of operators / financiers is Rs.12,069,085.90

(Rs. 1.21 Crores). Thus, the total amount outstanding in demat and bank accounts is Rs.1,490,605,349.96 (Rs. 149.06 Crores). The summary of holdings of holdings of operators and financiers are as under:

Summary of Operators' and Financiers' frozen holdings.

CLIENT NAME	TOTAL VALUE IN DEMAT ACCOUNTS AS ON 31.10.07	BALANCE IN FROZEN BANK ACCOUNTS*	TOTAL OUTSTANDING IN DEMAT AND BANK ACCOUNTS
Key Operators' Holdings	475,993,684.59	439,962.87	476,433,647.46
Financiers' Holdings	1,002,542,579.47	11,629,123.03	1,014,171,702.50
Total Holdings	**1,478,536,264.06**	**12,069,085.90**	**1,490,605,349.96**

*****- Refer para -14.8 post.

The details of entity-wise holdings are given in **Annexure 4.**

7.0 Gains made by key operators and financiers

7.1 The Committee sought to ascertain the gains made by the key operators and financiers.

7.2 A table showing the gains made by the key operators / financiers as made available to the Committee, is given in **Annexure 5** of this report.

7.3 The Committee was informed that the gains have been calculated on the basis of number of shares cornered by each Key Operator / financier (as per SEBI interim order dated 27.04.06) multiplied by the difference between the closing price on the day of listing and the issue price.

In the case of Roopal Panchal, the IDFC shares cornered through CDSL demat account have been ignored as these shares were transferred to her NSDL demat account and have been reckoned thereat. In the case

of Jhaveri Securities P Ltd. and Indiabulls Securities Ltd., SEBI has concluded that they are not key operators. In the case of Sugandh Estates and Investments Pvt. Ltd., Parag Jhaveri & Kamal Jhaveri, Himani Patel and Dharmesh Bhupendra M. (also known as D B Mehta), confirmatory orders have been passed. Further, it is understood that the names Dharmesh Bhupendra M and DB Mehta are of the same person.

7.4 The Committee observed that the IPO shares were pooled from the afferent accounts into the demat accounts of the key operators. It is these very same shares that have in many cases been further transferred to financiers. Therefore, for the purpose of computation of gains, the gains made by the key operators only may be considered. The names of the financiers who are stated to have acted in concert with the respective key operators have been indicated in the table at 'Annexure **5**' showing the gains made. For the purpose of possible recovery for re-allocation, the value of holdings in the frozen demat accounts of the key operators and the financiers have to be taken into account. The gains made by key operators and financiers as per Annexure 5 is Rs.914,234,761.25 (Rs. 91.42 Crores).

7.5 The Committee also observed that the quantum of unjust gains based on allotment to afferent accounts is approximately Rs. 95.69 Crores, of which the above mentioned Rs. 91.42 Crores were identified as belonging to shares that were transferred to key operators/financiers.

8.0 Percentage of afferent allotment in the retail category.

8.1 The Committee also sought information on the number of shares allotted to retail category in the 21 IPOs and the number of shares allotted to the afferent applicants in order to ascertain the percentage of afferent applicants in retail quota in these 21 IPOs.

8.2 A table containing the percentage of afferent allotment vis-à-vis the allotment to retail category in these 21 IPOs was presented to the Committee. The table containing such information is annexed as **Annexure 6**. From the table, it was observed that the percentage of afferent applications is the highest – at 28.85% - in the IPO issue of FCS Software Ltd. and is the lowest in the case of Jet Airways IPO at 0.63%. It was observed that in case of Yes Bank Ltd. and IDFC Ltd. issues where the irregularity was first detected by SEBI, the percentage of afferent applications is 9.12% and 10.18% respectively.

8.3 The Committee was informed that the data of number of shares allotted to retail category has been taken from the basis of allotment. All the data have been collated from the respective RTIs of these 21 IPOs.

9.0 Three Principles

9.1 The Committee after going through the terms of reference of appointing the Committee, background and analysis of the above tables / data and facts, came to a decision that the Committee needs to establish 3 principles as under:

a. To quantify the amount of unjust enrichment that has taken place, and which is the subject of reallocation.
b. To identify the genuine applicants who may be considered as "deprived".
c. To decide a basis on which the unjust enrichment is to be reallocated amongst the "deprived" applicants.

These principles can then be applied to the facts of each IPO and a consistent and fair method of reallocation arrived at across all deprived applicants in all the 21 IPOs.

9.2 The Committee also noted that quasi judicial / legal proceedings relating to the key operators and financiers are under way; and until their conclusion, it may not be possible to determine the quantum of unjust enrichment and the number of deprived applicants accurately. Therefore, the recommendations of this Committee are to be stated as principles, based upon the current status. The actual implementation of these recommendations will be based upon the facts as they finally prevail.

10.0 Analysis of 1st Principle – Quantification of unjust enrichment.

10.1 The Committee observed that SEBI unearthed and investigated the IPO irregularities in 2005. The irregularities involved were basically the following:

- Opening of a large number of DP (and bank) accounts in fictitious / benami names by certain individuals ("afferent accounts")
- These afferent accounts were controlled by and for the benefit of certain "key operators" and "financiers".
- The funds used for subscription in these IPOs came from certain "financiers".
- Applications were made using these afferent demat accounts and funds, in the retail quota of IPOs, so as to corner shares by using the favourable allotment chances for retail investors.
- On receipt of allotment in afferent accounts these afferent allottees had transferred the allotted shares to their principals / operators who in turn transferred the shares off market to financiers.
- The financiers sold most of the shares on first day of listing thereby realizing the difference between the issue price and the listing price.
- The modus operandi adopted by these operators / financiers has been given briefly in para 3.3. of this report.

10.2 The Committee called for the basis of allotment in all the 21 IPOs. 21 tables furnishing the basis of allotment in the IPOs in question were presented to the Committee. These tables have been annexed as **Annexures 7 to 27** to the report. A table of IDFC IPO (enclosed herewith as **Annexure 7**) was taken as a sample case by the Committee. The Committee analyzed the approved Basis of Allotment in the retail category of the IDFC IPO.

10.3 In accordance with the basis of allotment in IDFC IPO, 141,260,000 shares were offered (and allotted in the retail quota) to 491,043 successful allottees out of 613,680 applicants. The minimum number of shares allotted to the lowest category in the IDFC IPO was 200. Of these shares, **14,380,560** shares were allotted to **53,700** "afferent" allottees.

10.4 The Committee sought to know the basis on which afferent applicants were identified. The Committee was informed that the rationale for categorization of these accounts as "afferent" was that they were one of the 500 or more accounts that transferred the IPO allotments into a common demat account (belonging to the "key operator") via off-market deals prior to listing. While these afferent accounts were not frozen by any SEBI order, it is understood that 98% of the afferent accounts have been closed pursuant to KYC verifications. Some of the afferent accounts have been frozen by the depositories / depository participants (DPs) for deficiencies in KYC compliances / non-submission of PAN details.

10.5 The Committee observed that as per directions contained in the SEBI interim order dated 27.04.2006, depositories have frozen demat accounts of key operators and financiers. Further the Committee also noted that as per data furnished by the depositories, out of the 57,914 afferent accounts (36,216 in NSDL and 21,698 in CDSL, as informed

by the depositories, after excluding those relating to the alleged operators namely Indiabulls Securities Ltd. and Jhaveri Securities P Ltd.) as many as 56,909 accounts (35,297 in NSDL and 21,612 in CDSL) were closed. Thus more than 98% of the afferent accounts have been closed. Therefore, the Committee concluded that the securities, if any, held in the afferent demat accounts may not be relevant and the securities which are available in the frozen demat accounts of operators and financiers will be relevant for the exercise.

10.6 The Committee observed that Section 68A of the Companies Act provided that an applicant shall not apply for shares in fictitious names or shall not impersonate another person to apply for shares. The Committee observed that the charge sheet filed by CBI and the complaint filed by SEBI under Section 26 of the SEBI Act includes Section 68A of the Companies Act as substantive offence for which accused have been charged. The Committee observed that if genuine applicants applied multiple times in small lots in the retail quota, they were effectively exploiting the system by pretending to be retail (i.e. small) applicants whereas in reality they were large applicants. They were trying to take advantage of the better success ratio available in the retail quota. The Committee, therefore, observed that it *prima facie* appeared that each of these 53,700 allottees in the IDFC IPO seemed to be either fictitious applicants or had exploited the system designed to benefit small investors.

10.7 The Committee observed that all these afferent applications in 21 IPOs were made in the retail category of IPOs. The Committee felt that to the extent these fictitious “afferent accounts” were allotted shares, the genuine applicants were deprived of their chance to secure allotment. The Committee, therefore, quantifies the unjust enrichment in the case of each IPO to be the gain associated with the number of shares allotted to “afferent” applicants.

10.8 Accordingly, the Committee concluded that these 53,700 afferent applicants in the IDFC issue ought not to have been allotted shares at all, and to the extent they have been allotted shares on good faith basis by the Issuer Company, these were undeserving and unjust allotments. Therefore, **14,380,560** shares allotted to **53,700** "afferent" applicants were unjustly allotted and actually should have been allotted to other genuine applicants. *Prima Facie* it would appear that gains associated with these is the quantum of "unjust enrichment" and these shares are to be the subject of reallocation.

10.9 Extending this chain of reasoning, the Committee recommends that in each of the 21 IPOs, the number of shares allotted to afferent applicants be treated as unjust allotments / enrichment.

10.10 It was felt that for the purpose of determining the retail reallocation or entitlement of the genuine applicants, the applications made by afferent applicants have to be excluded from the re-allocation.

11.0 Analysis of IInd Principle – Identification of deprived applicants

11.1 The second principle is to determine the genuine applicants who may be considered as deprived. The Committee observed that there are broadly four categories of applicants, as under:

a. The applicants who were totally unsuccessful i.e. the applicants who were not allotted any shares at all in the IPO.

b. All non afferent applicants who were partly successful under the firm allotment category.

c. All non-afferent applicants who were partly successful under drawals of lots category

d. The applicants who applied in same category in which the afferent applications were made.

11.2 The Committee noted that each of these 21 IPOs was oversubscribed, and therefore went into the process of allotment for oversubscribed IPOs. The Committee also perused details of applications and allotment to afferent accounts and basis of allotment as given in **Annexures 7 to 27** in respect of 21 IPOs.

11.3 The Committee observed that the process of allotment for oversubscribed IPOs is laid down to be a transparent, fair process, and it has the following objectives:

- Applicants are only entitled to be considered for allotment, they do not have a right to be allotted shares.
- There is a principle of proportionality; i.e. an applicant for a larger number of shares will either have a better chance for securing an allocation, or a higher allocation, or both.
- In this process, applicants may receive no shares at all; they may receive lesser shares than they applied for, or they may receive the shares they applied for. It is entirely a function of the extent of oversubscription and the basis approved by the Stock Exchange.
- It is also an endeavor to allot at least a basic minimum number of shares to successful applicants and have a manageable number of shareholders to be administered by the Issuer Company. This means that the basis of allotment would not allot 1 share each to lakhs of applicants; instead it would allot say 100 shares to some of the applicants based on drawal of lots.

11.4 The Committee analyzed the IDFC IPO allotment process. A table listing the categories and the numbers of applicants in each category in the IDFC issue is given in **Annexure 28** of the report.

11.5 The Committee observed that there is no precedent for reallocation of shares, and there was neither a legal basis on which such a reallocation should be done, nor a legal entitlement for any section of the applicants to be reallocated. It was observed that the unsuccessful applicants have been given refund of their application money. This process has been initiated by SEBI in exercise of their powers to enforce market discipline and integrity and to demonstrate that unfair practices will not be tolerated and that victims of unfair practices will find justice.

11.6 The Committee observed that in deciding which applicants are to be treated as "deprived and deserving" of the reallocation, one cannot lose sight of the fact that:

- In every oversubscribed IPO, there are likely to be totally unsuccessful applicants.
- In every oversubscribed IPO there are likely to be partly successful applicants.

The Committee embarked on deliberations as to which category of applicants has to be categorized as deprived.

11.7 A section of applicants could argue that the entire original allotment must be cancelled and an entirely fresh allotment carried out. However this would be extremely disruptive to the market and create uncertainty amongst current holders of these shares (who may not be the original allottees). In addition, this would tantamount to affecting genuine allottees for no fault of their own. For these reasons, the Committee believed that it was required to ensure that the genuine allotments in the IPOs are protected.

11.8 A section of applicants will no doubt argue that only the applicants who applied in the same category as the "afferent applicants" are deprived. This will not hold water since if the afferent applications had been weeded out *ab initio*, those shares would have been allotted to all the other eligible applicants. It was felt that applications by afferent applicants affected the chances of allotment in all the categories and therefore deprived applicants cannot be confined to the same category as those of afferent applicants.

11.9 A section of applicants could argue that even the successful applicants were "deprived" since they would perhaps have received a marginally larger allotment had the 14,380,560 shares in the IDFC IPO allotted to afferent applicants been *ab initio* allotted to genuine applicants alone. This argument was also taken into consideration by the Committee.

11.10 The Committee observed that the purpose of creating a retail category in an IPO process is to ensure wide distribution of equity shares amongst small investors. The Committee deliberated whether the applicants who were totally unsuccessful only have to be categorized as deprived or even partly successful applicant can also be considered as deprived.

11.11 The Committee held a deliberation with experts such as officials of BSE and NSE and public representatives. These experts felt that the Committee may consider the non-allottees, rather than the partial allottees for the simple reason that the partial allottees have had the "benefit of the market" from the shares already allotted to them.

11.12 The Committee discussed the possible basis of allotment that might have prevailed in these IPOs had these afferent applications been detected at the beginning. The Committee has perused the principles by which the basis of allotment is usually drawn in an oversubscribed

IPO. The Committee also perused tables in respect of application and allotment to afferent accounts and basis of allotment in the 21 IPOs as given in annexure 7 to 27 of this report. The Committee has taken the views of the expert invitees on this subject. The Committee has understood that had these afferent applications been removed at the beginning and allotment carried out, the resultant basis would:

- Have still most probably allotted the same number of shares in the drawal-of-lots categories, but the success ratio would have been better. In the IDFC case, as can be observed from Annexure 28, the success ratio in the category of applicants of 200 shares was 4:21, resulting in approximately 19% of applicants being successful and allotted 200 shares each. Had all the afferent applicants been weeded out in the beginning, perhaps the success ratio would have been 23% or 24% but the same number of 200 shares would have been allotted to each successful applicant.
- Have probably allotted a slightly higher number of shares to allottees in the FIRM categories. In the IDFC case, all applicants in the category of applicants of 2000 shares were allotted 380 shares on a firm basis without a drawal of lots. In this category, possibly the firm allotment amount would have been a little more than 380 shares.
- Any impact on successful applicants in drawal of lots categories would have been minimal, if at all.

11.13 Thus the major impact of these afferent shares would have been amongst the unsuccessful applicants in the drawal-of-lots categories, while applicants in the firm categories would have been impacted, but perhaps to a far lesser extent. The question before the Committee was thus to determine a fair way in which these three categories of applicants (i.e. totally unsuccessful applicants, partly successful

applicants in firm and drawals of last category) would be treated in this exercise.

11.14 The Committee has observed that the markets have been very kind to investors in the period since listing of these IPOs. All allottees would have seen the value of their investment increase substantially in this period. Unsuccessful allottees, on the other hand, simply had their application money refunded to them. The Committee therefore felt that the totally unsuccessful applicant had a first call on the reallocation, but only up to a point i.e. upto the minimum number of shares allotted per applicant, after which partly successful investors in the firm category and thereafter partly successful applicants in drawal of lots category may also be considered for reallocation.

11.15 Thus on the question of deprived applicants, the Committee proposes that all unsuccessful applicants, then partly successful applicants in the firm category and thereafter partly successful applicants in the drawal of lots category shall be entitled to be considered as deprived applicants depending on shares available for spillover to partly successful applicants category after reallocation to totally unsuccessful applicants.

12.0 Mode of re-allocation.

12.1 The Committee deliberated on the form of reallocation amongst the deprived applicants, whether it should be in the form of IPO shares or money.

12.2 On the question of availability of shares to carry out the reallocation, the Committee has noted that the shares *per se* have largely been disposed off. While small quantities of these shares may be available in demat accounts frozen by SEBI, these are too small in quantity to be of substantive material value. The Committee has deliberated and

obtained expert inputs that it would be very de-stabilizing to markets and practically impossible to trace the originally allotted “afferent” shares to the current owners and recover them.

12.3 In case of reallocation of shares the procedure such as purchasing same shares from the market at the existing market price for reallocation and fresh application with application money from the deprived applicants who are considered for reallocation, will be required. It may not be possible to get the requisite number of shares from the market or available funds may not be sufficient to purchase the requisite number of shares at the current market price.

12.4 The Committee, therefore, recommends that reallocation be quantified in monetary terms and the entitlement of each “deprived applicant” be initially computed based upon shares but subsequently converted into monetary terms.

12.5 The Committee deliberated on the sum of money that is to be deemed to be the fair value of these shares. Shares have prices that vary on a daily basis. In addition, there may have been corporate actions such as dividends, splits and rights, each of which would have benefited the then current owner. It is not practical to determine the sum of money by reference to such a moving target. The modus operandi at para 3.3 of this report shows that the operators / financiers sold most of the IPO shares on the first day of listing thereby realizing the gain of price difference between IPO issue price and the listing price. The Committee felt that the difference between the closing price of the shares on the first day of listing and IPO issue price as fair for determining the sum of money that be considered for reallocation.

12.6 The Committee observed that the quantum of unjust enrichment may be computed in value terms by valuing the shares on the closing price

of the first day of listing / trading at NSE. The committee noted that any 'deprived person' (i.e. unsuccessful IPO applicant), if he so desired, could have purchased the shares from the secondary market upon listing and could have participated in the subsequent movements of the stock prices. Therefore it may not be necessary to reckon the subsequent movements in the stock prices for the computation of unjust enrichment and its reallocation.

12.7 The Committee observed that in the original allotment process all the valid applicants had only the right to be considered for allotment by drawal of lots. Therefore, any amount to be given on reallocation should not be treated as compensation as the unsuccessful applicants have already been refunded their application money. They had the option to purchase the IPO shares utilizing their refund amount after the listing of these securities if so desired by them. They are also not entitled for any interest or to claim the money equivalent to the minimum number of shares that are allotted in each category in case of oversubscription.

12.8 The Committee, therefore, recommends that for the purpose of reallocation or payment to these deprived applicants only the closing price at which these shares were listed on the first day of listing will be considered. In other words, these deprived applicants, will be considered for the amount which is the difference of closing price of shares on the first day of listing / trading at NSE and the IPO issue price. These applicants will not be entitled for the market price subsequent to the listing.

13.0 Analysis of III[rd] Principle – Basis for re-allocation amongst deprived applicants.

13.1 The question now is in what manner the reallocation should be done to individual deprived applicants. Here again the Committee obtained the opinion of the Expert invitees and carried out detailed deliberations.

13.2 It was observed that allocation of shares is always carried out by drawal of lots. This means that some applicants would be unsuccessful. It is possible to apply the same principle to reallocate the unjust enrichment to deprived applicants.

On the other hand, drawal of lots is carried out principally to ensure that the number of allottees is kept to a manageable number from the perspective of the issuer Company, and that each allottee receives a reasonable number of shares. These constraints do not apply to the current exercise when money alone is being recommended for reallocation among the deprived applicants, since it is possible to distribute even small sums of money efficiently using electronic credits. Drawal of lots again would possibly imply a quasi-allotment process, which is certainly not intended to be. Also, there would be a fair number of totally unsuccessful applicants who might be unsuccessful a second time or in second round as well.

13.3 The Committee after deliberating all the above options felt that for the purpose of reallocation, the original basis of allotment in IPO on proportionality or drawal of lots need not be adopted, *inter alia*, for the following reasons:

a. The applicants who were totally successful may again stake their claim on the plea that as they were successful in the

lots drawn in the original allotment, only they are entitled for reallocation and not the unsuccessful applicants.

b. The reallocation is recommended to be in terms of money to deprived applicants only, and, therefore, the same original allotment formula adopted for allotment of shares in an oversubscribed IPO need not be adopted for reallocation.

c. The recommendation to carry out reallocation in money terms to all deprived valid applicants would obviate the need to ask for fresh application money from the applicants.

d. No unsuccessful valid deprived applicant need be left out of the reallocation.

e. The above procedure will be simple and economical.

f. The Committee, however, made it clear that the above formula for re-allocation to valid deprived applicants only as recommended by the Committee, cannot be taken as a precedent for IPO allotments in case of oversubscription in future.

13.4 The experts also suggested that the gains being passed to the non-allottees need not and should not be based on drawal of lots. Instead the gains should be distributed among the non-allottees keeping in mind the resources available.

After much deliberation, the Committee arrived at the following "Spillover" method of reallocation:

- Provided the quantity of afferent shares permits, reallocation to unsuccessful investors can take place UNTIL each of them has been allotted the same number of minimum shares as was initially allotted to applicants in the lowest category. In the IDFC case, this

would mean that each unsuccessful applicant would be reallocated a maximum of 200 shares.

- If shares were left over after the above reallocation to totally unsuccessful applicants, then these would be allocated to partly successful applicant in the firm category and thereafter to partly successful applicant in the drawal of lots category.

13.5 The Committee felt that the first tranche of the reallocation – to unsuccessful applicants – should be carried out by equal division of the unjust enrichment, but limited per applicant to the value of unjust enrichment associated with the original allotment to the lowest category of successful applicants. In the case of IDFC Ltd., the issue price was Rs.34.00 and the closing price on the first day of trading was Rs.69.50. Thus, the gain per share works out to Rs.35.50 (69.50-34.00). Since the minimum allotment in the lowest category in IDFC IPO was 200 shares, the application of this principle would mean that the amount of reallocation to every unsuccessful applicant would be a maximum of Rs. 7100.00 (200 x 35.50).

13.6 Therefore, on the question of reallocation of shares, the Committee recommends a “spillover” method of reallocation. Under this method, totally unsuccessful applicants shall be reallocated money value as computed above from recovered unjust gains, if necessary and possible from the frozen shares in demat accounts of operators and financiers, till they each receive the gains associated with minimum shares allotted to the lowest category in the IPO. Once that number is reached, any gains left over shall “spill over” and be reallocated to the partly successful applicants in the firm category and thereafter in the drawal of lots category, to the extent of gains associated with minimum shares allotted to the lowest category in the IPO.

13.7 Annexures 7 to 27 to the Report give the table / list of the status of basis of allotment in each of the 21 IPOs. The reallocation to deprived applicants to be carried out in respect of these IPOs should be in accordance with recommendations as given in paras 13.4 to 13.5 above. It may be reiterated that the calculations are based on status of various issues as on date and the final position may vary depending on the facts emerging upon conclusion of the quasi-judicial / legal proceedings.

14.0 Implementation of Recommendations

14.1 In the background of the decisions in respect of the 3 principles, the Committee considered and deliberated various implementation scenarios. In Principle 1, the Committee suggested that the quantum of unjust enrichment is "gains associated with the number of shares allotted to afferent applicants". In Principle 2, the Committee has laid down the basis for identifying the "deprived" applicants. In Principle 3, the Committee has identified the manner (i.e. spillover method of reallocation) in which the unjust enrichment will be reallocated to the deprived applicants.

14.2 The Committee has observed that the reallocation amount to the deprived applicants must be paid out of moneys that must first be recovered from those who unjustly benefited such as the key operators and financers. The Committee recognizes that this may be a lengthy legal process, and it is quite possible that recoveries will take place in installments. The Committee has observed that the total unjust gains works out to about Rs. 95.69 Crores, based on shares allotted to afferent accounts, across the 21 IPOs under consideration. As noted earlier in para 6.3 and from the Annexure 4, the value of the holdings in the frozen NSDL and CDSL demat accounts of the key operators and financiers as on 31.10.07 works out to about Rs.

1,478,536,264.06 (Rs. 147.85 Crores). The balance in the bank accounts of operators / financiers frozen by CBI is Rs.12,069,085.90 (Rs. 1.21 Crores). The total amount outstanding in demat and bank accounts is Rs.1,490,605,349.96 (Rs. 149.06 Crores). SEBI may like to decide based upon the status of legal proceedings whether this amount is immediately recoverable and if so whether it can be distributed among the deprived applicants.

14.3 The Committee deliberated whether it is within its scope to suggest ways of recovering the cash allocation amount; and specifically whether these amounts can be recovered from other shares (i.e. shares other than the IPO shares) held in frozen Demat accounts. The Committee noted that the demat accounts of several key operators and financiers were frozen and had substantial balances of shares in them. The table in Annexure 5 indicates the gains made by key operators and financiers resulting from transfer of shares from the afferent accounts to key operators' accounts. The Committee observed that the SEBI finding shows that the key operators and financiers acted in concert to circumvent the IPO allotment process for their personal gain. Therefore, SEBI may make endeavor to recover and realize such amounts to the extent of deprivation, from the frozen demat shares, amount frozen by CBI and such other sums which may possibly be available under the consent scheme, etc.

14.4 As noted from para 7.3 the gains as shown in Annexure 5 have been calculated on the basis of number of shares cornered by each Key Operator (as per the SEBI interim order dated 27.04.06) multiplied by the difference between the closing price on the first day of listing and the issue price.

14.5 As regards shares other than the IPO shares which are available in the frozen demat accounts of the operators and the financiers, it was felt

that these operators / financiers who have gained through the cornering of IPO shares in retail category through applications in fictitious / benami names, can be asked to disgorge the gain and, failing which shares available in the frozen demat accounts of operators / financiers other than the IPO shares can be sold and proceeds also be utilized for re-allocation to the deprived applicants. The Committee, therefore, recommends that subject to due process all the shares available in the frozen demat accounts of operators and financiers be utilized for reallocation. The Committee also noted that SAT in its Order dated 22.11.2007 in Appeal No. 147 of 2006 in NSDL vs. SEBI has said that a person who has made illegal or unethical gains can be asked to disgorge its ill gotten profits.

14.6 If the recoveries proceed in stages, then the Committee recommends disbursing partial reallocation in stages based on recovered cash in hand. In the recent past, there has been a precedent where Fixed Deposit amounts have been returned to depositors in failed NBFCs, in stages, for which the Courts have appointed “Administrators”. Following this precedent, the Committee recommends a similar staggered payment, via SEBI appointed Administrators, who will take stage payment decisions based on the cost-efficiency of the process.

14.7 The Committee felt that the amount to be recovered from the operators / financiers should be to the extent of gains made by them. Any other money which may be available such as money seized by CBI or any other money which may be available / recoverable in due course on implementation of Consent orders in the matter of IPO irregularities may also be considered for reallocation on the same basis as recommended by the Committee.

14.8 The Committee observed that CBI in exercise of powers under Section 102 of the Code of Criminal Procedure have seized certain bank

accounts of certain operators. It is stated that the bank accounts of Dipak Jashvantlal Panchal, Purshottam Ghansayamdas Budhwani, Manojdev Gokulchand Seksaria, Bhanuprasad Trivedi and Dushyant Dalal have been seized. Out of these, the first three have been named as accused and the other two have been showed as accused not charged. It appears that the charge sheet filed by CBI does not refer to action under Section 102 of the Code of Criminal Procedure. It could be that the persons whose bank accounts have been seized would apply to the court to get those accounts released. In a meeting of the Committee reference has been made to the money frozen by the CBI in the bank accounts of certain operators. As per Annexure 4, the total balance lying in frozen bank accounts is Rs.120,69,085.90 (Rs. 1.21 Crores). If the money lying in the bank accounts is released by the court or even by CBI, it will be too late in the day to take charge of the money lying in those accounts. An application may have to be filed in the court concerned and also to the CBI not to release bank accounts so frozen and that money in the bank accounts be handed over to SEBI. But then it has to be made out that it's the SEBI that has the right to take charge of the money for the purpose of re-allocation to the deprived applicants. It is understood that till now, the amount lying in the seized bank accounts has not yet been released.

14.9 The Committee recognizes that reallocation to deprived applicants is operationally intensive and there will be expenses associated with the process. The Committee recommends that an Administrator or Recordkeeper be appointed to carry out the process. The Committee recommends that SEBI examine the possibility of these expenses being funded from the Investor Protection Fund of Stock Exchange or Investor Protection and Education Fund (IPEF) of SEBI failing which they must necessarily be funded from the recovered amounts and only the net amount reallocated. In order to ensure that there is cost

efficiency, it is recommended that payouts happen only when reasonable amounts are collected.

14.10 The Committee recognizes that the quantum and timetable of reallocations are dependent on the various judicial and quasi-judicial proceedings under way. The Committee recommends that should this report be placed in the public domain, due care should be taken not to unduly raise expectations among the public of an imminent payout. The Committee also recommends that as and when a payout takes place every such payout should be covered with a brief explanatory note for the benefit of the recipient applicants.

14.11 The Committee considered the following Implementation Steps for cash allocation:

a. The Committee recommends that all identified “Deprived Applicants “ will be automatically considered depending upon resources available under the spillover method, and each of these applicants will not be asked to apply again, seeking participation in the reallocation process; the Committee recommends that the process of reallocation must be adequately publicized to make all entitled applicants aware of their allocation.
b. There will be expenses incurred in this process. One option is to recover these expenses from the gross cash allocation amount. Alternately the expenses could be met from the Investor Protection Fund of stock exchanges or SEBI IPEF.
c. An “Administrator” may be appointed by SEBI for this purpose to handle the process.
d. The reallocation or payment, to the valid deprived applicants, may be made as far as possible as per the bank records in their demat accounts.

15.0 Limitations

15.1 The Committee wishes to confirm that it is the principles that have been recommended, and the actual numbers, tables etc. will vary depending on the facts of each IPO.

15.2 The Committee has worked on facts provided by SEBI, who have in turn sourced them from various regulated entities. The mandate of the Committee was to recommend principles for reallocation for the 21 IPOs specified by SEBI; and this reallocation exercise was limited to the retail quotas of the respective IPOs. The Committee has made a set of recommendations being aware that the facts as currently prevailing are disputed before different fora, and that the ultimate facts could be different. The Committee presently believes and hopes, on the basis of documents perused, that the final facts will not be so different as to negate these recommendations.

15.3 Legal proceedings relating to these key operators, financiers and intermediaries are under way; and until their conclusion it may not be possible to accurately determine the quantum of unjust enrichment and the number of deprived applicants. It may or may not be possible to recover any assets from any of these parties until then. Therefore the recommendations of this Committee are stated as principles and based upon facts as they currently stand. The actual implementation of these recommendations will be based upon the facts as they finally prevail.

15.4 Nothing in this report of the Committee should be construed as circumscribing the power of any authority in respect of IPO irregularities or reallocation thereof etc. to act in the manner as may be deemed appropriate by it or to act as per the law.

15.5 The Committee members noted that some tables included in the report consist of data, such as holdings in the demat accounts of key operators / financiers, and money frozen by CBI in bank accounts etc. which are not in public domain and may relate to private information of the individuals. Therefore, the Committee decided to include the data as separate annexures to its report. The Committee felt that if SEBI decides to put the report of the Committee in the public domain, SEBI may take appropriate decision on whether or not to put the annexures to the Committee report (containing such private information particularly annexures 4 and 5) also in the public domain.

16.0 Acknowledgements

16.1 The Committee met for the first time on August 31, 2007 and deliberated on the matter during period of six months. The members were apprised of the IPO process and the modus operandi in the IPO irregularities in cornering shares by key operators, financiers etc. by SEBI officials particularly Shri S. Madhusudhanan, AGM, ISD who assisted the Committee in securing data and in preparation of various tables for perusal and consideration of the Committee. The members were also apprised of findings of investigations in respect of IPO irregularities, action recommended by SEBI in respect of various entities including prosecution, tables on the 21 IPOs, their issue size, listing date, etc., and tables on the number of shares allotted to retail investors, the number of applicants who received no allotment or part allotment, refund in retail category, etc. The Committee acknowledges with thanks the overall support and co-operation provided by SEBI officials and officials from CBI, BSE, NSE and public representatives.

16.2 During the course of the detailed examinations, the Committee had occasion frequently to rely on the various orders passed by Shri G. Anantharaman, Whole Time Member of SEBI which are well documented, comprehensive, lucid and analytical. The Committee found these orders to be very useful.

16.3 Committee also places on record its appreciation of the support provided by Mr. S. Madhusudhanan-AGM, Integrated Surveillance Department, Ms. Anju Mahendra – Legal Officer, Mr. Rakesh Kumar – Legal Officer, Mr. Kirtikumar Jadhav – Legal Officer for their assistance to the Committee. The Committee could not have accomplished this task without secretarial support extended by Ms. Khurshid Fatakia and Ms. Sophie M.

The Committee acknowledges with deep appreciation the contribution of each and everyone associated with this project particularly those who shouldered the responsibility of compiling this document in a relatively short time.

Justice D P Wadhwa
Chairman

R. Sridharan
Member

V. Shankar
Member

Virendra Jain
Member

Ananta Barua
Member Secretary