

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992

In the matter of GDR issuances by certain Indian listed companies

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1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") investigated issuance of certain Global Depository Receipts (GDRs) in overseas market by Indian companies. The investigations had revealed that a Dubai Based Non Resident Indian, Mr. Arun Panchariya and entities connected to him i.e. **Pan Asia Advisors Limited** {now known as Global Finance and Capital Limited}, **India Focus Cardinal Fund** and **Vintage FZE** ("Vintage") {now known as Alta Vista International FZE} had perpetrated certain fraudulent scheme in connivance with the promoters/ directors of the issuer companies, with the intention of defrauding the Indian investors. With respect to Mr. Arun Panchariya, Pan Asia Advisors Limited, India Focus Cardinal Fund and Vintage, the following was noted:

- (a) Vide, SEBI Order dated June 20, 2013, Mr. Arun Panchariya and Pan Asia Advisors Limited were barred from rendering services in connection with instruments that are defined as securities (as in section 2(h) of SCRA, 1956) in the Indian market or in any way dealing with them, directly or indirectly, for a period of 10 years. Pan Asia and Mr. Arun Panchariya were also prohibited from accessing the capital market directly or indirectly, for a period of 10 years. The aforesaid Order had found that Pan Asia and Mr. Arun Panchariya had employed fraudulent arrangement with regard to the subscription of GDRs of Asahi Infrastructure & Projects Ltd. ("Asahi"), Avon Corporation Ltd. ("Avon"), Cat Technologies Ltd. ("Cat Technologies"), IKF Technologies Ltd. ("IKF"), K Sera Sera Ltd. ("K Sera Sera") and Maars Software International Ltd. and thereafter monetizing those GDRs through the sale of underlying shares of the GDRs and violated the provisions of Section 12A(a) –(c) of the SEBI Act read with Regulations 3(c)–(d), Regulations 4(1) and 4(2)(c), 4(2)(e)–(f), 4(2)(k), 4(2)(r) of the PFUTP Regulations,

- (b) Similarly, vide order dated September 21, 2011 read with order dated December 30, 2011, SEBI had restrained India Focus Cardinal Fund, an entity connected with Mr. Arun Panchariya from dealing in securities or instruments with Indian securities as underlying, in any manner whatsoever, until further orders. The said action was taken in view of the alleged role of this entity in respect of the GDR issues made by the companies referred in the sub-paragraph above. The orders were subject to the modification by Hon'ble Securities Appellate Tribunal made vide Orders dated November 21, 2011 and June 27, 2012, granting the entity permission to sell the scrips as mentioned therein and to repatriate the sale proceeds.
- (c) Vide order dated March 23, 2015, SEBI had *prima facie* found that Vintage availed loan from Euram bank and such loan was secured by a pledge agreement entered into with the issuer company, Rasoya Protein Limited. Accordingly, as an interim measure, SEBI had restrained Vintage from accessing the securities market and further prohibited from buying, selling or dealing in securities or any instrument exchangeable or convertible into securities, directly or indirectly, in any manner whatsoever, till further directions.

2. Currently SEBI is investigating 59 GDR issues (issued during the period 2002 to 2014) of 51 Indian companies. The investigation revealed that Mr. Arun Panchariya and entities connected to him i.e. India Focus Cardinal Fund, Vintage had dealt in the GDR issues of certain Indian companies. It is observed that the entities connected to Mr. Arun Panchariya had subscribed to the GDRs and the subscription money was availed as a loan from Bank, with the issuer company giving security for such loan. It was also suspected that the entities related to Mr. Arun Panchariya, had subscribed to the GDRs of certain Indian companies without valid consideration and sold the underlying shares in the securities market in India. As SEBI had also requested information from various foreign regulators in this regard, a reference came from *Comissão do Mercado de Valores Mobiliários* (CMVM), Portugal wherein a Portugal based bank identified certain Indian companies which had similar pledge agreements. The following is list of the Indian issuer companies that had issued GDRs {including the names of companies referred by CMVM} which are under investigation by SEBI:

Sl. No.	Name of the GDR issuer company	No. of GDR issues	Period of GDR issue	Total amount raised by GDR issue (USD) million	Global Depository Bank	Custodian of GDRs
1	Aksh Optifibre Ltd.	1	Sep-10	25.00	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
2	Aqua Logistics Ltd	1	Feb-11	62.38	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
3	Beckons Industries Ltd.	1	Jun-10	10.54	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
4	Bhoruka Aluminium Ltd.	1	Dec-10	10.38	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
5	Birla Cotsyn (India) Ltd.	1	Mar-10	25.00	The Bank of New York Mellon, USA	HSBC, Mumbai
6	Birla Power Solutions Ltd.	1	Jan-10	20.00	The Bank of New York Mellon, USA	HSBC, Mumbai
7	Edserv Softsystems Ltd.	1	Aug-11	23.89	The Bank of New York Mellon, USA	HSBC, Mumbai
8	IT - People Limited (name changed to Commex Technology Ltd.)	1	May-09	9.99	Deutsche Bank Trust Company Americas	Deutsche Bank AG
9	Jindal Cotex Ltd	1	Jun-10	38.75	JP Morgan Chase Bank, NY, USA	JP Morgan Chase Bank, Mumbai
10	Kemrock Industries & Exports Ltd.	1	Apr-10	50.00	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
11	Nakoda Ltd.	1	Nov-10	24.25	The Bank of New York Mellon, Luxembourg	DBS Bank Ltd, Mumbai
12	Nissan Copper Ltd.	1	May-10	22.40	The Bank of New York Mellon, USA	HSBC, Mumbai
13	Southern Ispat and Energy Ltd.	2	Aug-10, Jun-11	29.98	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
14	Sybly Industries Ltd.	1	Jun-08	6.99	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
15	Syncom Healthcare Ltd.	1	Sep-10	20.74	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
16	Teledata Technology Solutions Ltd.	1	Mar-10	36.97	The Bank of New York Mellon, USA	HSBC, Mumbai
17	Vikash Metal & Power Ltd.	1	Apr-11	11.99	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
18	Winsome Yarns Ltd.	1	Mar-11	13.24	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
19	Texmo Pipes and Products Ltd.	1	Apr-11	9.99	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
20	Farmax India Ltd.	1	Jun-10, Aug-10	71.91	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
21	Hiran Orgochem Ltd.	1	May-10	10.00	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
22	Tulsi Extrusions Ltd.	1	Aug-10	14.32	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
23	Zenith Birla (India) Ltd	1	May-10	22.99	The Bank of New York Mellon, USA	HSBC, Mumbai
24	ABL Technologies Ltd. (name changed to ABL Biotechnologies Ltd)	1	Jun-08	6.68	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
25	Aftek Infosys Ltd. (name changed to Aftek ltd.)	1	Feb-03	14.99	Deutsche Bank Trust Company Americas, London	ICICI Bank, Mumbai
26	Aptech Ltd.	1	Nov-03	14.40	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
27	BSEL Infrastructure Realty Ltd.	1	Dec-07	35.30	The Bank of New York Mellon, USA	ICICI Bank, Mumbai

Sl. No.	Name of the GDR issuer company	No. of GDR issues	Period of GDR issue	Total amount raised by GDR issue (USD) million	Global Depository Bank	Custodian of GDRs
28	Crew B.O.S. Products Ltd.	1	Jul-05	5.00	The Bank of New York Mellon, USA	ICICI Bank, Mumbai
29	GV Films Ltd.	1	Apr-07	40.00	The Bank of New York Mellon, USA	ICICI Bank, Mumbai
30	Himachal Futuristic Communications Ltd.	1	Sep-02	50.00	Initial depository bank - Deutsche Bank Trust Company, USA, subsequent succeeding depository bank - The Bank of New York Mellon, USA	ICICI Bank, Mumbai
31	Kaashyap Technologies Ltd.	4	May- 07, July-07, Dec-07, Oct-09	60.55	the Bank of New York Mellon, USA	ICICI Bank, Mumbai
32	KEI Industries Ltd.	1	Sep-05	9.99	The Bank of New York Mellon, USA	ICICI Bank, Mumbai
33	Lyka Labs Ltd.	1	Dec-05	5.00	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
34	Mascon Global Ltd.	1	Mar-08	21.00	Deutsche Bank Trust Company Americas	Deutsche Bank AG
35	Morepen Laboratories Ltd.	1	Mar-03	15.25	The Bank of New York Mellon, USA	ICICI Bank, Mumbai
36	Pentamedia Graphics Ltd.	3	Feb-02, Nov-02, Jun-03	60.55	M/s Bankers Trust Company, London	ICICI Bank, Mumbai
37	Pentasoftware Technologies Ltd. (Amalgamated with Pentamedia Graphics Ltd)	2	Apr- 02, Jun-03	35.08	1 and 2 Citi Bank NA, USA	Citi Bank NA, Mumbai
38	Rana Sugars Ltd.	1	May-06	18.00	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
39	Sanraa Software Ltd. (name changed to Sanraa Media Ltd.)	1	May-08	27.50	The Bank of New York Mellon, USA	ICICI Bank, Mumbai
40	Silverline Technologies Ltd.	1	Mar-09	2.66	JP Morgan Chase Bank, NY, USA	ICICI Bank, Mumbai
41	Soma Textiles and Industries Ltd.	1	Oct-06	17.29	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
42	Sterling Biotech Ltd.	1	Oct-03	15.39	The Bank of New York Mellon, USA	ICICI Bank, Mumbai
43	Visesh Infotecnics Ltd.	1	Dec-07	10.00	The Bank of New York Mellon, USA	ICICI Bank, Mumbai
44	Visu International Ltd.	1	Apr-06	9.66	Deutsche Bank Trust Company Americas	ICICI Bank, Mumbai
45	Winsome Textile Industries Ltd.	1	Mar-11	10.00	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
46	Rainbow Papers Ltd.	1	Oct-10	27.02	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
47	Resurgere Mines & Minerals India Ltd.	1	Jun-10	53.75	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
48	Chromatic India Ltd.	1	Oct-10	35.78	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
49	Rasoya Proteins Ltd.	1	Mar-11	32.00	The Bank of New York Mellon, USA	HSBC, Mumbai
50	Transgene Biotek Ltd.	2	Feb- 11, Oct-11	40.50	The Bank of New York Mellon, USA	DBS Bank Ltd, Mumbai
51	Zylog Systems Ltd.	1	FY 13-14	NA	JP Morgan Chase Bank, NY, USA	JP Morgan Chase Bank, Mumbai
<b>Total</b>		<b>59</b>				

3. The investigations into one such scrip, Farmax India Limited (hereinafter referred to as “Farmax”) revealed that Farmax issued 4.25 million GDRs (amounting to USD 59.925 million) on June 29, 2010 and 0.85 million GDRs (amounting to USD 11.985 million) on August 14, 2010 through Green Shoe option aggregating to issuance of 5.10 million GDRs (amounting to USD 71.91 million). Investigations revealed that Vintage (controlled by Mr. Arun Panchariya), was the only subscriber to GDR issues of Farmax. Funding for subscription was availed by Vintage by entering into a loan agreement (for USD 71.91 million) with the European American Investment Bank AG, Austria (hereinafter referred to as “**EURAM**”) and security for this loan was provided by Farmax itself by pledging its GDR proceeds.

4. The GDR proceeds were deposited by Farmax with EURAM for the GDR issue. The Bank of New York Mellon (hereinafter referred to as “BNY”) and DBS Bank Mumbai acted as the Global Depository Bank and Local Custodian, respectively, to the GDR issue. A London based entity, Prospect Capital Limited, was the Lead Manager to the GDR issue. It is noted that Vintage had defaulted on loan payment to the extent of USD 56.57 million and the same resulted in the pledge being invoked by EURAM.

5. Further, it was observed that Vintage transferred 12,56,000 GDRs of Farmax to India Focus Cardinal Fund (FII/sub-account, an entity connected to Mr. Arun Panchariya) which had then sold the 3,10,25,000 underlying shares of GDRs in the Indian securities market. It is therefore suspected that a major portion of remaining GDRs are held by Vintage or transferred to India Focus Cardinal Fund or other entities connected to Mr. Arun Panchariya.

6. Thereafter, GDR facility of Farmax with BNY (the Global Depository) was terminated by BNY w.e.f. June 16, 2015 and the underlying shares of outstanding GDRs were sold by BNY on BSE and NSE. The sell value of shares sold by BNY was Rs.1,71,53,923/- (*subject to deduction of brokerage and other charges by stock exchanges*). The Local Custodian i.e. DBS Bank has remitted the sale proceeds of shares to the tune of Rs.1,29,85,448.61/- to BNY and Rs.31,94,896.80/- is yet to be remitted. The shares sold by BNY were suspected to be held by entities connected to Mr. Arun Panchariya i.e. Vintage/ India Focus Cardinal Fund.

The investigations also observed that the same local custodian is yet to remit the sale proceeds of shares to the tune of Rs.70.51 lakh in the scrip of Nakoda Limited (*sr. no. 11 in the table above*) and Rs.17.82 lakh in the scrip of Winsome Yarns Limited (*sr. no. 18 in the table above*).

7. Termination of GDR facilities followed by sale of shares of Farmax and other scrips by BNY, has defeated the very purpose of the SEBI orders passed against Mr. Arun Panchariya, India Focus Cardinal Fund and Vintage.

8. I observe that the Global Depository Bank issuing the terminating notice to GDR holders to exercise the option of either take the possession of the underlying shares of GDRs or receive the sale proceeds of the shares sold by the Global Depository Bank on Indian stock exchanges, GDR holders not exercising the option of taking underlying shares of GDRs, subsequent shares of shares by the Global Depository bank and remittance of sale proceeds of shares by the Global Depository Bank to GDR holders debarred by SEBI, has culminated into a scheme which was *prima facie* devised to circumvent the SEBI orders passed against the entities debarred from securities market to passively/ indirectly deal in the securities.

9. In view of the role played by Mr. Arun Panchariya and his related entities, India Focus, Vintage and their conduct including that of Pan Asia in the earlier matters investigated by SEBI, it is suspected that the said persons may have similar roles in the other GDR issues they were involved. Further, it is suspected that similar *modus operandi* may be employed in all the remaining 58 GDR issues. If such activities are allowed to continue unabated, the same shall provide favourable ground to the entities to proceed with their game plan. Accordingly, it becomes necessary for SEBI to intervene to check the manipulative device and issue suitable directions, as an interim measure.

10. In view of the foregoing and considering the ongoing investigations in the above referred 59 GDR issues, in order to protect the interest of the investors and the integrity of the securities market, I, in exercise of the powers conferred upon me by virtue of sections 11(1), 11(4) and 11B of the SEBI Act, 1992, hereby issue the following directions:

a. The local custodians are directed to inform the depositories regarding the beneficiary accounts which receive/received the underlying shares on conversion/cancellation of GDRs of the 59 GDR issues of the 51 companies mentioned above in this Order. On

receipt of the information from the local custodians, the depositories are directed to freeze such beneficiary accounts.

b. In case the underlying shares of the GDRs are sold by the Global Depository Banks, the sale proceeds shall be kept in an interest bearing Escrow account with the Indian custodian of the GDRs.

c. The local custodian is directed to keep the sale proceeds, as mentioned in paragraph 6 above, in an interest bearing escrow account.

11. The above directions shall be acted upon by all concerned.

12. The above direction shall come into force with immediate effect and continue to remain in force till further directions.

The persons/entities who may be aggrieved by this Order may file their representation with SEBI within a period of 21 days from the date of receipt of this Order.

**PRASHANT SARAN  
WHOLE TIME MEMBER  
SECURITIES AND EXCHANGE BOARD OF INDIA**

**Date: June 16<sup>th</sup>, 2016  
Place: Mumbai**