

SECURITIES AND EXCHANGE BOARD OF INDIA
ORDER

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

In the matter of fund diversions and/or improper transactions in United Spirits Limited.

In respect of:

Sr. No.	Noticees	PAN
1.	Dr. Vijay Mallya	AENPM6247A
2.	Shri Ashok Capoor	AAKPC0254G
3.	Shri Sowmiyanarayanan	AJAPS4294F
4.	Shri S.N. Prasad	ADWPP7032J
5.	Shri P.A. Murali	ADBPM6778K
6.	Shri Paramjit Singh Gill	ANJPG8261F
7.	Shri Ainapur S.R.	ACSPA7910M

Background:

1. Securities and Exchange Board of India (SEBI) had passed an interim order dated January 25, 2017 (Interim Order) under Section 11(1), 11(4) and 11B of the SEBI Act, 1992 in the matter of United Spirits Limited (USL), against the above-named Noticees (i.e. Dr. Vijay Mallya, Shri Ashok Capoor, Shri Sowmiyanarayanan, Shri S.N. Prasad, Shri P.A. Murali, Shri Paramjit Singh Gill and Shri Ainapur S.R.) whereby they were *inter alia* restrained from accessing the securities market and were further prohibited from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly or indirectly. The said Noticees were also restrained from holding position as Directors or Key Managerial Persons of any listed company.
2. The facts of the case, provided in detail in the interim order, are briefly extracted below:

- (a) On July 4, 2013, Relay B. V. [wholly owned subsidiary of Diageo Plc (“Diageo”), a public limited company incorporated in England & Wales] along with persons acting in concert, viz. Diageo; Diageo Finance Plc; Diageo Capital Plc and Tanqueray Gordan and Company Limited, acquired 25.02% equity shares of USL. Subsequently, through further acquisitions, Relay B.V.’s shareholding in USL increased to 58.77% as on December 31, 2015.
- (b) During the intervening period, in the Audit Report for the Financial Year 2013–14, BSR & Co. LLP (Statutory Auditor of USL) (“BSR & Co. LLP Report”) qualified certain transactions by USL, which are detailed below –

“The company created provisions of ₹649.55 Crores as reported in the Annual Report for Financial Year 2013–14, giving the following explanation for the provisioning in its notes to accounts: Certain parties who had previously given the required undisputed balance confirmations for the year ended 31 March 2013, claimed in their balance confirmations to the Company for the year ended 31 March 2014 that they have advanced certain amounts to certain alleged UB Group entities, and that the dues owed by such parties to the Company will, to the extent of the amounts owed by such alleged UB Group entities to such parties in respect of such advances, be paid / refunded by such parties to the Company only upon receipt of their dues from such alleged UB Group entities. These dues of such parties to the Company are on account of advances by the Company in the earlier years under agreements for enhancing capacity, obtaining exclusivity and lease deposits in relation to Tie-up Manufacturing Units (“TMUs”); agreements for specific projects; or dues owing to the Company from customers. These dues were duly confirmed by such parties as payable to the Company in such earlier years. However, such parties have now disputed such amounts as mentioned above.”

- (c) Pursuant to the aforementioned, USL appointed Pricewaterhouse Coopers, United Kingdom (“PWC–UK”) to examine such transactions. PWC–UK submitted its Report (“PWC–UK Report /Initial Inquiry /Initial Inquiry Report”) on March 24, 2015, which indicated diversion of funds from USL at the behest of Dr. Vijay Mallya (“Mallya”). As per the PWC–UK Report, a further provision of ₹21.6 Crore was made in the Financial Year 2014–15 and the explanation given in the notes to accounts of the Annual Report (Financial Year 2014–15) was as follows:

“The (Initial) Inquiry Report stated that between 2010 and 2013, funds involved in many of these transactions were diverted from the Company and/ or its subsidiaries to certain UB Group companies, including in particular, Kingfisher Airlines Limited (“KFA”). The diverted amounts were included in the provision made by the Company in the financial statements for the previous financial year. The

Inquiry also indicated that the manner in which certain transactions were conducted, prima facie, indicates various improprieties and potential violations of provisions, inter alia, of the Companies Act, 1956, and the Listing Agreement signed by the Company with various stock exchanges in India on which its securities are listed. The financial impact of these non-compliances on the Company were estimated by Management to be not material.

During the year ended 31 March 2015, an additional provision of ₹216.0 Million (i.e. ₹21.6 Crores) was made for interest claimed. The Management has determined that in light of these provisions, no additional material adjustments to the financial statements are required on this account. In connection with the recovery of the funds that were diverted from the Company and/or its subsidiaries, pursuant to the decision of the Board at its meeting held on 25 April 2015, the Company is in the process of initiating steps for recovery against the relevant parties, so as to seek to expeditiously recover the Company's dues from such parties, to the extent possible."

- (d) Upon a consideration of the aforesaid PWC–UK Report, the Board of USL on April 25, 2015, called upon Mallya to voluntarily resign from the said Board and to step down from his position in the subsidiaries of USL. However, Mallya refused to step down from the Board of USL.
- (e) On February 25, 2016, Diageo entered into a Settlement Agreement (“Settlement Agreement”) with Mallya wherein it agreed to pay USD 75 million as settlement amount to him. In furtherance of such Agreement, Mallya resigned from his position as Chairman and Non–Executive Director of USL. On the same date, USL and Mallya entered into an agreement wherein they agreed to a mutual release in relation to matters arising out of the Initial Inquiry by USL.
- (f) Upon being asked by SEBI, USL vide letter dated June 16, 2016 referred to PWC-UK Report and *inter alia* submitted the details of the modus operandi by which the funds were diverted:

“The e–mail messages and other documents reviewed as part of the inquiry concluded by USL’s Board of Directors on April 25, 2015, indicated the following modus operandi (or variations thereof) in relation to the diversion of funds to KFA.

- *USL funds were initially provided by USL to its TMUs and these amounts were shown to be payments made for operational reasons e.g. advances or security deposits. The TMUs then forwarded the funds to certain intermediary companies who were part of or associated with the UB Group. These intermediary companies then forwarded the funds onto KFA. The close*

proximity regarding the dates of each of the fund transfers as well as e-mail messages indicating that the transfers from USL were intended for onward transfer to the intermediaries and then onto KFA, indicated diversion.

- *In the case of two USL distributors, the distributors were each requested to advance funds as interest bearing loans to KFA or to an intermediary for onward transfer to KFA. In the case of one distributor, USL's former Chairman as well as a former senior USL officer each wrote a letter to the distributor stating that until the intermediary repaid the distributor the amount that had been so advanced by the distributor to the intermediary (₹190 Crores) with interest due thereon, an equivalent amount could be withheld (on an interest free basis) from the total operating amount owed by the distributor to USL i.e. in relation to the distributor's sale of USL products.*
- *Amounts that had been previously advanced by USL and its subsidiaries to UBHL and its subsidiaries and that were consolidated into the single loan dated July 3, 2013 with UBHL were further lent or advance by UBHL and its subsidiaries directly/indirectly to KFA and other UB Group Companies."*

(g) On July 9, 2016, USL made disclosures to BSE and NSE under Regulation 30 of the Listing Regulations, 2015, wherein it was stated –

"The documents reviewed during the Initial Inquiry contained references to certain additional parties (Additional Parties) and matters (Additional Matters) indicating the possible existence of other improper transactions. While such references could not be fully analysed during the Initial Inquiry, the nature of these references raised concerns regarding the propriety of the underlying transactions.

Therefore, after the Initial Inquiry was concluded ... the Board mandated that USL's Managing Director and Chief Executive Officer (MD & CEO) conduct further inquiry (Additional inquiry) into historical transactions involving the Additional Parties and Additional Matters, to determine whether transactions with these Additional Parties or involving these Additional Matters also suffered from improprieties.

... At its meeting held on July 9, 2016, the Board discussed and considered in detail the Report submitted by the MD & CEO in relation to the Additional Inquiry.

The Board noted that while only a Court or concerned regulatory authority would be in a position to make final determinations as to fault or culpability, the Additional Inquiry prima facie revealed further instances of actual or potential fund diversion amounting to approximately ₹913.5 Crores as well as other potentially improper transactions involving USL and its Indian and overseas subsidiaries amounting to ₹311.8 Crores. These transactions occurred during the review period covered by the Additional Inquiry

i.e. from October 2010 to July 2014 (Review Period, which was substantially the same as the period covered by the Initial Inquiry) although certain transactions appear to have been initiated in year prior to the Review Period.

These improper transactions identified in the Additional Inquiry involved, in most cases, the diversion of funds to overseas and Indian entities that appear to be affiliated or associated with USL's former Non-executive Chairman, Mallya. The overseas beneficiaries or recipients of these funds include entities such as Force India Formula One, Watson Ltd., Continental Administrative Services, Modall Securities Limited, Ultra Dynamix Limited and Lombard Wall Corporate Services Inc., in each of which, Dr. Mallya appears to have a material, direct or indirect interest. The Indian beneficiaries or recipients of the funds identified by the Additional Inquiry included, in most cases, KFA.

... In connection with the recovery of funds that are prima facie identified by the Additional Inquiry to have been diverted from the Company, the Board directed that the Company should conduct a detailed review of each case of fund diversion to assess the Company's legal position and then take such action as is necessary to recover its funds from the relevant parties and individuals to the extent possible. The Board further noted that the mutual release agreed with Dr. Mallya and announced on February 26, 2015, does not extend to matters arising out of the Additional Inquiry."

- (h) Thereafter, SEBI received a letter dated July 11, 2016, whereby USL submitted a copy of the Company's Additional Inquiry Report dated June 29, 2016 (as prepared by Ernst & Young).
- (i) The observations contained in the PWC-UK Report dated March 24, 2015 were under:
 - i. USL provided funds to the companies of the UB Group to the tune of ₹655.55 Crores (including interest of ₹72.12 Crores), directly and indirectly, through the subsidiaries/PACs of United Breweries (Holdings) Limited ("UBHL"), viz.
 - a. Margosa Consultancy Pvt. Limited ("**Margosa Consultancy**");
 - b. Redect Consultancy Pvt. Limited ("**Redect Consultancy**");
 - c. Bangalore Beverages Limited ("**Bangalore Beverages**") and
 - d. Bestride Consultancy Pvt. Limited ("**Bestride Consultancy**").
 - ii. A break up of the funds diverted/improper transactions of ₹655.55 Crores to the companies of the UB Group is provided as under –

TABLE VII – DIVERSION OF FUNDS/IMPROPER TRANSACTIONS		
SR. No.	NAME OF ENTITY	TOTAL AMOUNT OWED TO USL (₹ IN CRORE)
A. TRADE RECEIVABLES FROM DISTRIBUTORS		
1.	WAVE INDUSTRIES PVT. LIMITED (“WAVE”)	224.08
2.	SULTANIA TRADE PVT. LIMITED (“STPL”)	5.94
B. ADVANCES TO TIE-UP MANUFACTURING UNITS		
3.	ADLERS BIO-ENERGY LIMITED	15.58
4.	ASSOCIATED BLENDERS PRIVATE LIMITED	15.60
5.	UNNAO DISTILLERIES & BREWERIES LTD. (“UNNAO”)	56.07
6.	KHEMANI DISTILLERIES PRIVATE LIMITED	36.43
7.	SEVEN SEAS DISTILLERY PRIVATE LIMITED	25.00
8.	PEARL DISTILLERY LIMITED	10.00
9.	MANDOVI DISTILLERIES & BREWERIES PRIVATE LIMITED	19.00
10.	SAHYADRI SUGARS & DISTILLERIES PRIVATE LIMITED	15.00
11.	MANGALAM DISTILLERIES & BOTTLING INDUSTRIES	15.00
12.	MADHUSALA DRINKS PRIVATE LIMITED	3.00
13.	UTKAL DISTILLERIES LIMITED (“UTKAL”)	64.85
C. ADVANCES TO PROJECT RELATED ENTITIES		
14.	PINVEST INVESTMENTS & ENTERPRISES PRIVATE LIMITED	90.00
15.	MINDSPACE CONSULTING & SERVICES PRIVATE LIMITED	60.00
TOTAL		655.55

iii. The *modus operandi* adopted was as under –

- a. USL first gave trade receivables/advances to distributors/TMUs/Project Related Entities (“PRE”) and such advances were *inter alia* disclosed as amounts provided for working capital requirement, enhancement of capacities, lease deposits in the books of accounts of USL.
- b. The funds were then transferred to UB Group companies under instructions from Mallya and other Key Management Persons (“KMP”).
- c. The distributors/TMU/PRE of USL, refused to return the advances to USL stating the reason that the funds were due from the UB Group companies to whom they had forwarded the funds at the behest of Mallya. Further, the distributors/TMU/PRE of USL refused to return the said amounts till such time they receive the funds due from the UB Group companies.
- d. In its Report, PWC–UK stated that one of the distributors, viz. Wave, in its defence relied upon letters dated January 5, 2012, signed by Mallya and Mr. Ashok Capoor (the then-MD of USL), whereby it was permitted to withhold payments due to USL till such time it collects funds from the UB Group companies.

- e. In its Report, PWC–UK also stated that the funds transferred by USL were ultimately transferred to a few companies in the UB Group. In one such instance, USL transferred ₹25 crore to a TMU namely Utkal on November 24, 2011 and the same was transferred by Utkal to KFA, on the same day. Similar instances of such fund diversion are also mentioned in the said report.
- iv. The following persons/officials of USL were active and/or had knowledge of the diversion of funds as detailed at paragraph 1.20, viz. –

TABLE VIII – PERSONS/OFFICIALS OF USL RESPONSIBLE DIVERSION OF FUNDS/IMPROPER TRANSACTIONS		
SR. NO.	NAME	STATUS
1.	DR. VIJAY MALLYA	NON-EXECUTIVE CHAIRMAN
2.	ASHOK CAPOOR	MANAGING DIRECTOR (UP TO APRIL 30, 2014); DIRECTOR AND PRESIDENT – STRATEGY (W.E.F. MAY 1, 2014)
3.	P.A. MURALI	EXECUTIVE DIRECTOR AND CHIEF FINANCIAL OFFICER
4.	SOWMIYANARAYANAN	ASSISTANT VICE PRESIDENT – ACCOUNTS
5.	S.N. PRASAD	SENIOR VICE PRESIDENT – FINANCE AND ACCOUNTS
6.	PARAMJIT SINGH GILL	PRESIDENT – ALL INDIA OPERATIONS
7.	AINAPUR S. R.	DIVISIONAL VICE PRESIDENT – ACCOUNTS

- (j) The observations contained in the Ernst & Young Report dated June 29, 2016 are as under:
- i. As observed from available electronically stored information relating to the books of account/financial statements/bank statements, etc. there was a diversion of funds and potentially improper transactions amounting to ₹1225.24 Crores, detailed as under –

NATURE OF TRANSACTION		₹ IN CRORES
A.	FUND DIVERSION	616.58
B.	POTENTIAL FUND DIVERSION	296.90
C.	POTENTIALLY IMPROPER TRANSACTIONS	311.76
	TOTAL	1225.24

- ii. The above is explained below –

- A. **Fund Diversion** – The E&Y Report considered an aggregate amount of ₹616.58 Crores as diversion of funds from USL and its subsidiaries including USL Holdings BVI (“**USL BVI**”), USL Holding (UK) Ltd. (“**USHUK**”), United Spirits Great Britain Ltd. (“**USGBL**”) and United Spirits (UK) Ltd. (“**USUKL**”) (hereinafter collectively referred to as “**USL UK**”) to various overseas and domestic entities.

USL AND SUBSIDIARY ENTITY FROM WHICH FUNDS WERE DIVERTED	AMOUNT DIVERTED (IN ₹ CRORE)	BENEFICIARY ENTITY TO WHOM FUNDS WERE DIVERTED
USL	18.93	Watson Ltd ("Watson")/ Force India Formula One Team Ltd ("Force India"/ "FIF1")
USL UK	51.61	
Whyte & Mackay Group Ltd ("W&M")	9.23	
USHUK	23.08	
USL BVI	22.34	
USL BVI	206.55	Modall Securities Ltd ("Modall")
USUKL	17.61	Ultra Dynamix Ltd ("Ultra Dynamix")
Palmer Investment Group Ltd ("Palmer")	23.29	Continental Administrative Services ("CAS") and Ultra Dynamix
USL	15.14	CAS and Indian Empress (Yacht under control of Vijay Mallya)
USL BVI	2.39	Indian Empress
USL	53.23	MRK Enterprises Pvt Ltd ("MRK")
USL BVI	34.62	Lombard wall Corporate Services ("Lombard")
Asian Opportunities Investment Ltd ("AOIL")	2.90	UB Emirates LLC
Shaw Wallace Finance Company Ltd ("SWFCL")	7.00	KFA
SWFCL	12.00	KFA and KARE Electronics Pvt. Ltd.
USL	10.00	KBD Sugars & Distilleries Ltd ("KBD")
Royal Challengers Sports Pvt. Ltd. ("RCSPL")	89.72	KFA
USL	16.94	KFA
TOTAL	616.58	

- B. **Potential Fund Diversion** – The E&Y Report indicated potential fund diversions amounting to ₹296.90 Crores from USL and its subsidiaries to various overseas entities detailed as under [since transaction records for this amount have remained untraceable by USL] –

USL AND SUBSIDIARY ENTITY FROM WHICH FUNDS WERE POTENTIALLY DIVERTED	AMOUNT DIVERTED (IN ₹ CRORE)	BENEFICIARIES TO WHOM THE FUNDS WERE POTENTIALLY DIVERTED
USL BVI	42.10	Not available
USGBL	9.23	Watson/ FIF1
USHUK	40.28	Watson
USL	18.68	Ultra Dynamix
W&M	116.77	Watson / FIF1
W&M	14.96	Watson
Palmer	24.01	Not available
USL BVI	0.99	UB Emirates LLP
USL	29.88	Not available
TOTAL	296.90	

C. Potentially Improper Transactions – The E&Y Report indicated potentially improper transactions amounting to ₹311.76 Crores from USL and its subsidiaries to various overseas entities detailed as under [In its letter dated August 5, 2016, USL informed SEBI that transaction records for this amount have remained untraceable; therefore, such transaction have not been considered as fund diversion/potential fund diversions] –

USL AND SUBSIDIARY ENTITY INVOLVED IN IMPROPER TRANSACTION	AMOUNT DIVERTED (IN ₹ CRORE)	ENTITY BENEFITTING FROM IMPROPER TRANSACTION
PALMER AND USUKL	12.21	NOT AVAILABLE
PALMER AND USL BVI	29.58	
USL BVI	177.47	ULTRA DYNAMIX
USL	67.5	KFA
RCSPL	25.00	KFA
TOTAL	311.76	

(k) As observed from the PWC-UK Report, the individual involvement of the persons who were indicated as being active and/or had knowledge of the diversion of funds, is discussed in detail below:

A. DR. VIJAY MALLYA

PWC–UK in its report relied upon the e-mails showing that Mallya, the then Chairman and Non-executive Director of USL, exerted pressure and influence over USL employees to arrange funds for KFA. Certain instances of the same are provided as under:

- i. Mallya issued a letter dated January 5, 2012, authorizing Wave to withhold ₹190 Crores due to USL. An identical letter of the same date was sent by Mr. Ashok Capoor to Wave on behalf of USL.
- ii. Vide an e-mail dated March 25, 2012, Mallya wrote to Ashok Capoor and PA Murali that KFA had significant dues towards the Income Tax Appellate Tribunal and instructed that USL “*would have to come up with ₹44 Crores, if needed.*”
- iii. Vide an e–mail dated April 19, 2012, addressed to PA Murali, USL’s Chief Financial Officer, Mallya stated:
 - “1. *You are aware of my compulsion to keep KFA flying. Any slippage will be a disaster for the Group.*
 2. *To set the record straight, I confirm that you have been acting under my direct authorization for which I take responsibility.*

3. You are aware that I have been following up 3 fund raising proposals –

- A) HDFC
- B) Bank of Maharashtra
- C) Pelican funding

The Pelican funding is to ensure that UBHL meets its obligations as well as to fund KFA.

4. *As the Pelican funding is complex and time consuming despite best efforts, I am asking for interim funding support from USL. Once this is in place, UBHL can return funds to USL with the appropriate accounting entries.”*

- iv. Mr. Ashok Capoor, vide an e-mail dated July 13, 2012, *inter alia* informed Mallya that it was not possible for USL to support UB Group companies to meet any of their needs and in fact, USL needed support from UB Group companies in those circumstances. In response, Mallya vide his e-mail dated July 18, 2012, stated that *“I know the USL position exactly. It is my final call. If you cannot accept my instructions, you are free to decide your further steps.... but let me repeat, my call is final and an instruction.”*

B. MR. ASHOK CAPOOR

- i. Mr. Ashok Capoor, being the Managing Director of USL, had knowledge that USL was providing financial support to KFA and at times the company was borrowing monies from the banks to provide such support.
- ii. Mr. Ashok Capoor had also sent an e-mail dated May 22, 2011, to Mallya with copy to P.A. Murali, stating *“he had handed over ₹20 Crores cheque to Mr. Harish Bhat (Managing Director, UBHL) in favour of UBHL which was collected from Mr. Ashok Khemani”* (representative of Khemani Distilleries Pvt. Ltd., one of the TMUs).

C. MR. P.A. MURALI

Mr. P. A. Murali was the Executive Director and Chief Financial Officer of USL. He had knowledge of the channeling of USL funds to UB Group companies, directly and through UBHL Subsidiaries. He appeared to have acted under the directions of Mallya to arrange funds. Certain instances of the same were as under:

- i. PA Murali vide e-mail dated July 11, 2012, to Ashok Capoor with subject as *‘KFA salaries’* stated as under:
“The trailing mails are self-explanatory. In view of VJM’s (ref. to Mallya) directions below, we will be constrained to divert any collections that we may have net of adjustments being done

directly by the bankers for their overdue interest / installments / devolved LCs, for group support.”

- ii. It may be noted that Mallya vide email dated July 10, 2012, instructed PA Murali as follows:

“The non-payment of salaries has become a very serious issue that needs to be addressed immediately today itself. KFA needs to start demonstrating some employee payments. Talk to Raghu (A. Raghunathan, CFO, KFA) and do the needful so that we keep the show on the road.”

- iii. In another instance, PA Murali vide an e-mail dated November 29, 2011, to KFA with copy to Mallya, S.N. Prasad, Harish Bhat and A. Raghunathan (CFO, KFA) stated as under:

“The primary reason being the need to keep the headroom available for them to release monies to USL for doing the round robin shifts before utilizing it for our purposes. We are working on various TMUs to complete the shift in the manner that we discussed which could be a time span of 7-10 working days.”

- iv. The said e-mail is in line with the *modus operandi* with respect to distributors/ TMUs/ PREs as discussed earlier.

D. MR. SOWMIYANARAYANAN (“SOWMI”)

- i. Sowmi was Assistant Vice President – Accounts of USL. As per the details available on record, he had knowledge of the direct and indirect financial support being provided to UB Group companies by USL. As in one instance, Sowmi was marked a copy of the e-mail dated December 26, 2011, from Mr. Ainapur S.R. (Divisional Vice President, Accounts of USL) to Mr. Sanjay Malhotra (representative of Unnao, one of the TMUs), wherein it was instructed that funds transferred to Unnao amounting to ₹15 Crores may be transferred to Margosa and Redect (₹7.5 Crores each).
- ii. Further, vide email dated January 27, 2012, to V. Raju, an employee of UBHL, Sowmi forwarded a draft agreement to be entered into between Unnao Group and Margosa and Redect. This clearly indicates that Sowmi appears to have assisted in the arrangement of fund transfers to UBHL entities, viz. Margosa and Redect from USL via Unnao (TMU) as per the *modus operandi* discussed earlier.

E. MR. S.N. PRASAD

- i. S. N. Prasad was the Senior Vice President – Finance and Accounts of USL. The details available on record show that Mr. S.N. Prasad had knowledge of the direct and indirect financial support being provided to UB Group companies by USL. In an e-mail dated March 26, 2012, addressed to P.A. Murali with a copy to Sowmi, S.N. Prasad suggested different strategies for ‘round robin’ (reference to the manner of movement of funds from one entity to another to achieve the ultimate objective of providing funds to the companies of UB Group) of funds to avoid disclosure requirements.
- ii. Mr. Ainapur S.R. sent an e-mail to Mr. Sanjay Malhotra with a copy marked to Sowmi. This e-mail was sent with instructions to transfer funds from Unnao, a TMU (out of funds transferred to Unnao) to Margosa and Redect.
- iii. Further, SN Prasad vide email dated December 2, 2011, forwarded an e-mail from Sowmi to PA Murali, which contained the details of funds transferred to KFA through various TMUs from September 7, 2011 to December 1, 2011.
- iv. Vide email dated August 11, 2011 with subject ‘KFA’, Mr. S.N. Prasad stated the following to Mr. P.A. Murali:

“Today through Utkal, we have funded KFA for ₹10 Crores for which we have a cheque from them dated 17th for the same. AR (A Raghunathan, CFO, KFA) spoke to me many times and wanted this to help in salary payments. He has promised that on 16th, the payment will be made by RTGS as soon as he received and has reconfirmed to me that no one knows the arrangement.”

F. MR. PARAMJIT SINGH GILL

- i. Paramjit Singh Gill was the President–All India Operations of USL. He was alleged to have knowledge and involvement in the transactions of USL with distributors.
- ii. In one of the instances, Ashok Kapoor marked to Paramjit Singh Gill a copy of e-mail dated January 5, 2012, sent to Ainapur S. R. wherein he stated “*as discussed with Paramjit, this is the letter to be given to Mr. Ponty Chadha (representative of Wave, one of the distributors) once you get an approval from me*”. The letter referred to was from Ashok Kapoor (MD of USL) authorising Wave to withhold ₹190 Crores due to USL. This letter was sent to Wave on January 05, 2012.

- iii. Paramjit Singh Gill further instructed Ainapur S.R. vide an e-mail dated January 5, 2012, *to do needful as advised.*

G. MR. AINAPUR S. R.

- i. Ainapur S. R. was the Divisional Vice President–Accounts of USL. He had knowledge and involvement in the transactions with distributors as already mentioned in respect of Sowmi and Paramjit Singh Gill.
 - ii. Further, on January 4, 2012, Ainapur S. R. sent an e-mail to P. A. Murali with a copy to Paramjit Singh Gill stating that Ponty Chadda (from Wave) advised USL that they will give the format of the letter and that the same should be signed by the MD of USL. The email also mentioned that Ponty Chadda advised that the amount to be mentioned in the letter should be ₹190 Crores instead of ₹140 Crores.
 - iii. Pursuant to Ponty Chadha’s advice, Ashok Capoor (MD of USL) sent a letter dated January 5, 2012, authorising Wave to withhold ₹190 Crores due to USL, as mentioned earlier.
3. Considering the aforementioned facts and circumstances, it was alleged in the interim order that Mallya in his capacity as Chairman of USL during the relevant period was instrumental in the diversion of funds from USL. In his endeavor to supply funds from USL to various companies/entities of the UB Group including KFA, he had exerted pressure on the aforementioned KMPs to comply with his instructions and the same were complied with as noted from the e-mails extracts reproduced above. Similarly, in his capacity as the Managing Director of USL during the period when funds were diverted, Mr. Ashok Capoor was in charge of and was responsible to USL, for the conduct of its business. It was therefore *prima facie* found that Mallya, Mr. Ashok Capoor along with the other KMPs were active in facilitating and/or had knowledge of the diversion of funds from USL to the companies of the UB Group. By diverting substantial funds from USL to companies of the UB Group, Mallya and other KMPs have engaged in an act or practice which *prima facie* operated as a fraud or deceit on the public shareholder/investors of USL. Mallya and the other KMPs i.e. Mr. Ashok Capoor, Mr. P.A. Murali, Mr. Sowmiyanarayanan, Mr. S.N. Prasad, Mr. Paramjit Singh Gill and Mr. Ainapur S.R. were therefore *prima facie* alleged to have committed fraudulent and unfair activities prohibited under Section 12A(c) of the SEBI Act , 1992 (“SEBI Act”) and Regulations 3(d); 4(1) alongwith 4(2)(e), (f) and (k) of the SEBI

(Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (“**PFUTP Regulations, 2003**”).

4. The Noticees were granted inspection of various documents including relevant extract of PwC-UK’s report, USL’s letters to SEBI etc., as per their requests, on various dates during February 13, 2017 to February 27, 2017. The Noticee no. 1 was also subsequently provided with copies of engagement letter pertaining to PwC-UK report and the audio recordings / transcripts of interviews conducted for the said report. The Noticee no. 1 had requested for cross examination of certain persons associated with preparation of PwC-UK Report. SEBI made attempts to ensure the presence of these persons for cross examination but they were in vain.
5. The Noticee nos. 1, 3, 4 6 & 7 had filed appeals before the Hon’ble Securities Appellate Tribunal (SAT) against the interim order. However, the Hon’ble SAT vide its order dated August 08, 2017 dismissed the appeals and upheld the interim order. It further directed SEBI to pass final order in the matter within four months. Subsequently, Vide orders dated January 08, 2018 and March 26, 2018, the Hon’ble SAT extended the deadline for passing final order in the matter to March 31, 2018 and May 31, 2018 respectively.
6. On applications made by the Noticee nos. 3, 4, 5, 6 & 7, SEBI vide order dated February 15, 2018 granted partial interim relief to these Noticees from the prohibitions issued under the interim order so that they could liquidate their holdings for meeting their financial needs.

Replies of the Noticees:

7. The Noticees have made written submissions in reply to the charges in the SCN, which are summarised as below.
8. Shri Vijay Mallya vide his letters dated September 15, 2017 and April 27, 2018 has submitted inter alia the following:
 - a) It is incorrect to rely on submissions made by USL including the PWC Report and E&Y Report. Without undertaking an independent investigation or inquiry of its own,

and without even verifying the information or collecting any credible evidence in relation to the alleged diversion of funds and fraudulent conduct, the interim order is based purely on private third party representation and reports, viz. the PWC Report and the E&Y Report, which were inherently biased against the Noticee and orchestrated by Diageo Plc solely with the view of removing the Noticee as Chairman of USL. It is imperative for SEBI to institute its own independent enquiry and independent appraisal of evidences gathered, while passing an order.

- b) The Noticee's relationship with USL and with Diageo, after Diageo acquired a controlling interest in USL, has been acrimonious and adversarial and any representations made by USL and reports prepared at the behest of USL must necessarily be tainted as being inherently biased against the Noticee.
- c) PWC Report is an attempt to create a false impression that there were serious discrepancies in the functioning of USL without sufficient material to support the findings. The same has been prepared at the behest of Diageo with the sole intent of ensuring the Noticee's exit from the Board of Directors of USL. Diageo and its officers were intimately involved in the preparation of the PWC Report, which has been acknowledged by PWC Report itself.
- d) PWC has not conducted independent interviews but has only relied on recordings thereof provided to them. It was the team from Diageo which conducted the interviews of USL employees for fact finding and the PWC Report was prepared hand-in-glove with Diageo with the sole aim to prejudicially target the Noticee. It was Diageo team which dictated the outcome of the so called independent PWC Report to further its ulterior motive of ousting the Noticee from the Board of USL.
- e) Reliance has been blindly placed on the representations made by USL and the PWC Report for passing the interim order, without independently verifying the facts. Thus, the order suffers gravely from want of natural justice and so the order is ultra vires the powers granted to SEBI under Section 11 and 11B of the SEBI Act.
- f) All the transactions in question pertain to the period 2010 to 2012. At all material times, these transactions were to the knowledge of the persons who were then directors of USL at the time of the transactions. In fact, the auditors (including PWC) and Board of Directors of USL at the relevant time have both approved the audit reports and financials of USL. Despite this, it is most unfortunate that no efforts whatsoever have

been made by either PWC or the Managing Director to interview the Board Members of USL at the time of these events, which is expressly stated in PWC Report.

- g) PWC report has not conducted any investigation or enquiry from any of the TMUs, distributors or PREs to verify and understand from them the reasons for not repaying legitimate dues owed by them to USL.
- h) All the transactions in question pertain to 2010 to 2012. During the FYs 2009-10 and 2010-11, PWC Bangalore were the statutory auditors of USL, a clear conflict of interest.
- i) The auditors in 2009-10 and 2010-11 i.e. PWC Bangalore have made several observations on the Financial Statements which did not indicate any observations now sought to be made in the PWC Report.
- j) The PWC Report is replete with several Caveats and disclaimers. These pertain to liability for the report, scope of the report, independent verifications etc.
- k) As regards the Trade Receivables/ Dues from TMUs, the PWC Report identifies 15 parties (“Specified entities”) (2 Trade Receivables and 13 TMUs) who apparently failed to provide undisputed balance confirmations for the FY ended March 31, 2014, as in the past. From PWC Report itself, it is evident that one TMU (Utkal Distilleries Limited) had in fact given an undisputed balance confirmation at the outset, and a further 9 entities subsequently furnished undisputed balance confirmations. Clearly these undisputed balance confirmations year after year establish that the underlying transactions between USL and these parties/entities were arm’s length, legitimate commercial transactions. With regard to the remaining 5 parties, they having previously furnished USL with undisputed balance confirmations for several years prior to 2013-14, they are clearly estopped from contending to the contrary. It is obvious that these 5 entities have attempted to take advantage of the change in management and control of USL on July 04, 2013, to avoid their respective liabilities to USL.
- l) Apart from supporting the commercial requirement of the specified entities, the advances from USL also provided commercial advantages to USL. Based on growth trajectory of USL in 2008-09, 2009-10, there was a need to create additional capacity to sustain the growth levels forward. Further, given the high growth rate of the previous years, the pressure from bottlers for increasing their bottling fees was very high. In fact, the specified entities have all been able to meet their manufacturing

obligations to USL and continue to manufacture for USL till date. This had added many benefits.

- m) PWC Report does not contain any suggestion that the transactions with the specified entities are in themselves improper or that they are not genuine transactions. Further, USL has made several other loans to TMUs and such other transactions are not under investigation in the present circumstances. These transactions, including the ones with the specified entities were standard commercial practices. At the start of the relevant period, as can be noted by the Annual Report of USL for FY ended March 31, 2011, an amount of Rs.49.90 crores was due from TMUs.
- n) All loans extended to Specified Entities are repayable as a matter of law, the loan documents are valid and binding, and there is no indication that there is any legitimate ground to avoid repayment or that they contest the validity of the agreements or arrangements.
- o) In some instances, UB Group companies received assistance from entities outside the UB Group. This could include entities, such as distributors, TMUs and PREs. The Noticee was aware of and assisted efforts to elicit support from third parties in the interest of the UB Group as a whole, including USL. For instance, the Noticee assisted efforts to elicit support from Wave and Sultania for UBHL and KFA. In both cases, the Noticee leveraged his personal relationship or his commercial relationship with the entity to procure the necessary assistance for the UB Group. Such third party support was not in any way improper nor did it amount to diversion of funds of USL.
- p) All loans extended to UB Group Companies by the Specified Entities were in the interest of the UB Group as a whole, including USL, and never detrimental to USL. The loans extended by the specified entities to the UB Group companies was a risk taken upon and assumed by themselves, which is evidenced by the unqualified balance confirmations given by the Specified Entities to USL for several years until the financial year ended March 31, 2014.
- q) The third party support has always been independent of any receivables / advances extended by USL to the Specified Entities. Any debts owed by the Specified Entities were never made conditional upon repayment of debts owed to them by UB Group Companies. Support from Specified Entities was never sought on the basis that these entities would cease to be obliged to make payments due to any of their creditors,

including USL. There was no legally enforceable understanding that these entities would not have to repay monies owed to USL. This is further corroborated by the Specified Entities when they were interviewed by Mr. Murali, then Executive Director and CFO of USL, and as recorded in his report titled “Report on Enquiry into claims made on USL by Third Parties” dated June 16, 2014 (CFO Report). The PWC Report has simply disregarded the said CFO’s report which clearly records the unequivocal admission by 12 out of 15 entities that the transactions between them and USL had no linkage to any of their transactions with other UB Group Companies.

- r) One example of a distributor has been provided in the order, namely Wave, where the distributor, in its defence, allegedly relied upon letters dated Jan 05, 2012 signed by the Noticee and Mr. Ashok Capoor (the then-MD of USL), whereby it was permitted to withhold payments due to USL till such time it collects funds from the UB Group companies. The letter signed by the Noticee was no more than a comfort letter designed to provide additional assurance to the Wave Group. The letter was provided in light of an urgent direct and personal request made by Shri Chadha to the Noticee during a period in which Mrs. Chadha was under considerable external pressure in respect of his business affairs.
- s) The position regarding the loans extended to specified entities appears to have changed only pursuant to the acquisition of a stake in USL by Diageo.
- t) In any event, against a total outstanding of Rs.655.55 Crores set out in PWC Report, the aforesaid 10 undisputed balance confirmations aggregate to a sum of Rs.333.03 and four parties viz. Madhusala Drinks Pvt. Ltd., Khemani Distilleries Pvt. Ltd., Seven Seas Distillery Pvt. Ltd., Pearl Distillery Limited and Mandovi Distilleries & Breweries Pvt. Ltd. have repaid fully/partially (in aggregate a sum of Rs.33 crores) their outstanding dues. In case of Utkal against an outstanding of Rs.64.85 Crores, USL has a registered charge on Utkal’s fixed and current assets which are worth 102.91 Crores. This fact has been deliberately suppressed from SEBI by USL, Diageo and PWC. The details of the same are available on ROC Website.
- u) If the USL management genuinely believed that the TMUs and distributors were conspiring with the Noticee to divert funds from the company, the question of thereafter maintaining its ongoing relationships does not arise.

- v) The detailed particulars relating to USL's dealings with each of the aforesaid 15 TMUs and/or distributors had been fully disclosed to Diageo in the course of extensive due diligence carried out by Diageo with the assistance of reputed professionals such as lawyers, CAs etc. prior to completion of the share purchase agreement between Diageo, Relay B.V. and UBHL and KFIL.
- w) The PWC Report is deliberately misleading. The loans to TMUs has a legitimate commercial purpose and were supported by valid and binding legal agreements which are enforceable by USL.
- x) The PWC Report suggests that USL Funds were routed directly and indirectly through intermediaries to KFA. The above finding is purportedly based on publicly available financial statements and review of email communications. However, the Report does not identify the financial statements or the emails in question.
- y) In USL's management's view and based on legal advice received, the amounts covered by UBHL Loan are no longer considered as a diversion of USL Funds.
- z) The contentions in relation to Sahara lien are entirely misplaced.
- aa) The PWC Report in the entire section pertaining to Group Support only makes references to emails and statements contained therein. There is no co-relation between the emails and accounts of the company/ any documents to show that the statements in the emails were in fact true. The PWC Report fails to co-relate statements in the emails with the factual situation as existed nor are the contents of the emails supported by any documents.
- bb) The Noticee did not exert any pressure on USL or the KMPs, resulting in diversion of funds, as alleged. The Noticee does not deny that USL provided funding to other UB Group companies from time to time. This was in accordance with the widely prevalent corporate practice of Group Support. Not only has USL provided group support to other UB Group Companies but it has also been recipient of such support in the past.
- cc) The Noticee was not only Chairman of USL but also heading the UB Group, which included companies other than USL, like UBHL, KFA etc.
- dd) Similar to the PWC Report, no reliance can be placed on the E&Y Report.
- ee) The alleged violations are not in the nature of fraud under Section 12A(c) of the SEBI Act and Regulations 3(d) and 4(1) along with 4(2)(e), (f) & (k) of the PFUTP

Regulations. The alleged fraud in any way has no connection with the issue or dealing in securities.

- ff) Dealing in securities is essential for any charge of fraudulent and unfair trade practice.
 - gg) Action for alleged violation of PFUTP Regulations should be taken against USL and not the Noticee.
 - hh) The directions against the Noticee are in violation of Section 11B and the order is not in the interest of investors.
 - ii) SEBI does not have jurisdiction to decide upon the allegations of diversion of funds. SEBI is neither the appropriate regulatory agency to determine diversion of funds from a public company nor does the act of alleged fund diversion constitute 'fraud' under the SEBI Act or the FUTP Regulations. It is SFIO which has jurisdiction to detect fraud under the provisions of the Companies Act.
 - jj) SEBI's powers under the FUTP Regulations is limited to the activities in securities market.
 - kk) SEBI has ignored the inherent conflict of interest in the appointment of PwC.
 - ll) The transactions in question are part of separate suits filed by Diageo before City Civil Court, Bangalore, and are under adjudication. If SEBI passes a final order in their respect, the Courts will be prejudiced.
9. Shri Paramjit Singh Gill, the Noticee no. 6, vide his letters dated April 17, 2017 and February 06, 2018 has submitted the following, in respect of the charges against him in the interim order:
- a) Ex-parte interim order does not have anything to say about the Noticee except for having been copied on some email reviewed by SEBI. As such, there is no specific finding about his role or involvement at all.
 - b) The material on record shows that the Noticee had no involvement in the decision-making to permit Wave to withhold amounts due to USL or in other irregularities.
 - c) At the relevant time i.e. 2011-12, as the COO of RPC, North of USL, his responsibilities were primarily sales and operations. In the ex-parte order, he is referred to as the president, All India Operations, which is his present designation. At the relevant time, as COO of RPC, North, he was not part of the Executive Committee

of the Company that took such decisions, and he did not have access to the Board of Directors or to the Audit Committee of the Board.

- d) The Noticee reported to Mr. Ashok Capoor, the President and MD of the Company. The Noticee had no role to play in the finance functions of the company.
- e) During the period May 23, 2011 to August 08, 2011, the Noticee was on paid leave since he was attending a 10 week Fulbright-Nehru-CII Fellowship Program for Leadership in Management at the Tepper School of Business, Carnegie Bosch Institute, Pittsburg, USA. He has documentary evidence for the same.
- f) From email correspondence now made available by SEBI, it is evident that the decision to authorize / permit Wave to retain the dues to USL against payment of Rs.140 Crores to Bangalore Beverages Limited (BBL) was made after he left for the US. He was not at all connected with the said decision.
- g) The entire set of emails exchanged between various employees / officials of USL on Jan 04 and 05, 2012 in relation to payment made by Wave to BBL appears to have missed SEBI's attention. SEBI has considered just one email of Jan 05, 2012 to arrive at the erroneous conclusion that he was aware of and was involved in the irregularities regarding the said payments. He was copied on emails on Jan 05, 2012 only because he was the COO of RPC North and Wave/PC Group were distributors for the states that came under Northern Region.
- h) USL had a stringent protocol for any expenditure to be incurred by the company. In terms of the same, the Noticee was not at all exclusively empowered to take any conclusive decision on spending even Rs.1 Lakh.
- i) In their meeting held on April 25, 2015, the Board of Directors of the Company set up an Internal Committee (IC) to conduct an inquiry and initiate action against employees who appear to have been involved in the transactions covered by the Initial Inquiry. Since the Noticee's name was mentioned in the PwC Report, he was required by the IC to participate in the inquiry held by it. By a letter dated August 11, 2015 he was informed of the following conclusions of the IC after its inquiry, which has not been considered by SEBI:
 - (i) That the Noticee had acted primarily in execution of written instructions from senior officers of the company.

- (ii) That at the relevant time, his position did not involve him in or give him access to information relating to the operations of the company vis-à-vis other group companies and therefore, he could not be expected to know that actions which he had been instructed to take were or could have been improper, even though their unusual nature made him seek additional comfort prior to taking action.
- (iii) That given his seniority, a caution letter was to be issued to him and placed in his personal records, and
- (iv) No other action was warranted to be taken against him.

10. Shri Ashok Capoor, the Noticee no. 3, vide his letters dated May 03, 2017 & March 15, 2018 has submitted *inter alia* the following, in respect of the interim order:

- a) The interim order is in excess of the jurisdiction of SEBI. SEBI could not debar the Noticee from accessing the securities market as he is not associated with the securities market.
- b) The Noticee has not been given inspection of all the documents, which is in violation of the principles of natural justice.
- c) The findings of PwC Report are without foundation. Merely because the confirmation of balance is conditional does not ipso facto mean that USL is not in a position to recover the said balances. That USL chooses not to recover the balances and thereafter seeks to blame the earlier management is not justifiable method. Each of the amounts that are advanced by USL to various bottlers are fully recoverable and it is for USL to initiate proceedings to recover the said sums of money.
- d) Although initially the various bottlers may have given some “so called” conditional confirmation of balances, most of them have withdrawn the same upon discussions and have provided unconditional confirmations. As to why the said unconditional confirmations have been ignored is not known or disclosed by USL.
- e) The confirmation of balances of some of the bottlers viz. Adlers Bio-Energy Ltd., Associated Blenders Pvt. Ltd., Seven Seas Pvt. Ltd., Pearl Distillery Ltd, Mandovi Distilleries and Breweries Pvt. Ltd., Mangalam Distilleries and Bottling Industries, Sahyadri Sugar and Distillaries Pvt. Ltd., are absolute and without any conditions. Although there existed a condition in the balance confirmations earlier, the same has

been withdrawn subsequently. Minutes of meeting also confirm that the payments were independent.

- f) It is not clear as to why PwC and other auditors ignored the confirmation of balances which were provided subsequently.
- g) In so far as the letter said to be issued to Wave Industries, the Noticee asserts that no such letter has been delivered to Wave Industries. The letter that Wave Industries is relying upon is only the letter of Mr. Mallya. To attribute motives to the Noticee on that count is completely unsustainable.
- h) USL acknowledges that it is settling with each of the companies and that it is in the process of recovering the said sums of money. In one case, money has in fact been recovered. There is a clear contradiction in the stand of USL and the Board of USL. The auditors are deliberately not taking into consideration the fact that each of the entities has provided confirmation of balances which are unconditional and have made payments as well. Ignoring of this fact by PwC and E&Y Reports raises suspicion that all of this is being done to implicate officials of USL.
- i) As regards the loans to UBHL, an important feature of the entire group transactions was the fact that there were various inter-group loans and financial support. This has been the case for a significant period of time. As a matter of fact, during various transactions which USL resorted to, UBHL provided guarantees and support to raise finances. In particular for the Whyte & Macay transaction, USL could not have proceeded with the same without financial support and guarantees provided by UBHL. However, such financial support and guarantee always came at a cost so as to ensure that there was no support provided free of cost. USL did have to make payment of certain fee to UBHL.
- j) Loans to UBHL were extended at a significant rate of interest and the loans ranged from 12 to 18 months. UBHL always repaid the loans from time to time.
- k) The Board of USL approved loans to UBHL at various points in time. Nothing was done in secrecy or behind the back. The total group exposure (i.e. from USL and its subsidiaries to UBHL or its subsidiaries) was being informed every quarter to the Audit Committee as well as to the Board of USL by CFO. It was also disclosed in the Balance sheet for March 2013.

- l) Finally when the consolidated loan of Rs.1375 Crores was being put through in October 2012, the same was done at the behest of Diageo as it required a loan document to be signed and finalized. After it was finalized, the same was also approved by USL Board.
 - m) The restructuring of the loan to UBHL with much softer terms was a negotiated arrangement with Diageo.
 - n) There was 'Emphasis on matter' on the recoverability of the loan in the statutory audit report for year ended March 31, 2013, which was removed by Diageo by concluding that the amount was recoverable.
 - o) The allegation that amounts were paid to various creditors of Kingfisher Airlines and therefore cannot be construed as a loan to UBHL and accounted as such is not correct. The amounts were paid on the instructions of UBHL but creating a liability on UBHL and none others. USL never agreed to make payment to any other subsidiary unless it was for and on behalf of UBHL. In all cases, debit notes were issued to UBHL and immediately accepted by UBHL. UBHL has confirmed their balances for 2012, 2013 and 2014.
11. Shri P.A. Murali, the Noticee no. 5, vide letters dated April 30, 2017 and February 16, 2018 has made submissions similar to those made by Shri Vijay Mallya and Shri Ashok Capoor. He has submitted *inter alia* the following:
- a) The PWC Report is motivated and biased.
 - b) The charge of diversion of funds is offshoot of non-recovery of outstanding amounts. If the company does not make any attempt to recover dues, which are legally recoverable, the erstwhile officials of USL, like the Noticee, cannot be penalized.
 - c) Interim Order by SEBI has been passed in gross violation of principles of natural justice.
 - d) The Noticee was Executive Director of USL during the period 04.07.13 to 22.04.2015. He had resigned from the company on 22.04.2015.
 - e) In 2001, he was transferred / relocated to Breweries Division of UB Group, employed with United Breweries Ltd. (UBL) as Divisional Vice-President-Finance. Ever since 2001, he has been functionally reporting to the then President – Corporate Finance, UB Group, and administratively to the then MD of UBL.

- f) The Group Corporate Finance had an overarching oversight on the Finance function of all the operating entities in the group, including that of USL. Therefore, though at the relevant time, he was the CFO of USL, there were functional hierarchies above his position to which he was responding to.
- g) Various constituents of UB Group, of which UBHL was the investment holding company, worked in close coordination with each other with a history of inter-company support as and when needed with requisite internal and/or board approvals.
- h) USL has not made effective attempts to recover the funds provided to entities on purported ground of maintaining the ongoing relationships with the parties to avoid adverse effects on the company's continuing business.
- i) Most of the bottlers have stated on record that their transactions with other UB Group companies were independent and have provided unconditional confirmation of balances.
- j) Contrary to the claims of USL that it would be detrimental to their business interests to recover monies, the amounts due have been fully recovered in some cases, which demonstrates that the monies are recoverable.
- k) In the financial years 2010-11 or 2011-12. When various associates / contract manufacturing units / distributors of USL took an independent decision to support companies of the UB Group at the request of the UB Group Corporate office, under various independent enforceable arrangements for due consideration, UBHL was an asset rich company with no winding up petition instituted against it by any of the creditors. In addition, KFA was a going concern with publicly pronounced possibilities of equity infusion and debt restructuring etc. Merely because, subsequently the operations of KFL were suspended at the end of 2012, the transactions cannot be given the colour of being improper.
- l) Diageo Plc was fully aware about the transactions during negotiations in 2012.
- m) As regards loans to UBHL by USL, these were approved by USL at various points in time.
- n) The allegation that amounts were paid to various creditors of Kingfisher Airlines and therefore cannot be construed as a loan to UBHL and accounted as such is not correct.

- o) As regards the allegations against the Noticee in the interim order, at the relevant time, he was only the CFO of USL and was not part of Board of USL. He was functionally reporting to the President & CFO – UB Group.
 - p) There was no channeling of funds as alleged. At times, in order to provide support to the group companies, the funds were provided. The said transfer in the ordinary course of business, between the group companies, was neither unusual nor abnormal. Crucially, he was not decision maker. There was elaborate hierarchy structure in finance department above him and he was acting pursuant to the instructions of the Group head or the Group Finance head.
 - q) His email dated July 11, 2012 was his reporting to Mr. Ashok Capoor, the then MD of USL, about the direction received from the chairman of the Board despite conveying his contrary views vide email dated July 09, 20-12 on request for funds to meet the salary payment of Kingfisher Airlines Ltd.
 - r) The email dated Nov 29, 2011 was not about any round robin. The words “TMU shift’ that is mentioned in the final sentence of the Noticee’s email dated Nov 29, 2011 under a separate para was the feedback to the Corporate Finance Department with respect to the TMUs paying monies to UB Group associate companies, as some of the executives of USL were requested to co-ordinate with those parties about their commitments. Therefore, this email was not explaining any Modus Operandi as suspected in the interim order.
 - s) There has been acrimony between Diageo Plc and Mr. Mallya for various reasons over USL acquisition transaction and Diageo used the information on hand obtained during the due diligence to pressurize Mr. Mallya into resigning from the Board by procuring biased reports from PwC and E&Y.
 - t) The Noticee had resisted transfer of any further funds to KFA, despite the diktat and relentless pressure from the Chairman, Shri Mallya.
12. Shri Sowmiyanarayanan (Noticee no. 3), Shri S.N. Prasad (Noticee no. 4) and Shri Ainapur S.R. (Noticee no. 7) have replied to the interim order vide common letter dated September 01, 2017 and have submitted *inter alia* the following:
- a) The Noticees were not Key Managerial Personnel (KMPs) in USL who were responsible for diversion of funds/improper transactions. They were at best mid-level

employees in USL who worked in the accounts and/or finance department. The Noticees did not have control over how the funds were to be utilized, nor did they have any control over the conduct of operations of USL.

- b) The Noticees are not KMPs within the meaning of Section 2(51) of the Companies Act, 2013.
- c) The Noticees reported to and merely acted on the instructions of senior officers such as CFO of USL/Group CFO/Group Treasurer. They had no executive powers and did not take business decisions for USL. They were several levels below the Board of Directors in the organizational hierarchy of USL.
- d) It was customary in USL that all revenue expenditures as per the budget of USL were required to be approved / signed off by the respective head of functions, who were part of Management Team. Based on such approval/recommendation, the finance dept. merely processed the accounting and payment. None of the Noticees was in a position to approve any purchase/ supply orders. The Noticees merely acted as per the approvals received or instructions issued by respective functional heads or CFO of USL.
- e) Inferences in the interim order on the basis of e-mails referred to in the interim order are incorrect. There was no reason for the Noticees to believe in their professional and independent judgment that there was any improper or unethical action.
- f) The Noticees did not have any direct, active or recurring role in the transactions since they did not occupy executive positions in USL. Merely having visibility or knowledge of money being transferred from one entity to another, does not imply that a person having such visibility or knowledge has undertaken any illegal activity, or that he knowledge of how the money would be utilized ultimately.
- g) The alleged violations are not in the nature of fraud under the provisions of the PFUTP Regulations.
- h) The interim order is in violation of Sections 11 and 11B of the SEBI Act. The order is not in the interest of investors or market integrity.
- i) The interim order has been passed in violation of the principles of natural justice.
- j) Order has been erroneously passed by relying on third party reports.

13. The Noticees were granted an opportunity of personal hearing on February 08, 2018; March 15, 2018 and March 23, 2018. During the personal hearing, the Noticees reiterated their submissions as made above.

Issues and consideration thereof:

14. I have gone through the charges, as mentioned in the interim order, against the Noticees and their replies thereto. The main issues involved in the case which need to be determined are (a) whether there was diversion of funds from USL as alleged in the interim order; and (b) if there was indeed diversion of funds, whether the Noticees are responsible for the same.

15. The Noticees have raised a preliminary objection to the instant proceedings on the ground that the allegations made against them in the interim order are based on a report of a forensic audit, commissioned by Diageo and conducted by PwC, rather than on the basis of SEBI's own investigation. Further, it is relevant to note that SEBI has not relied solely on the PWC report, as contended by the Noticees, but also on various items like the information elicited by SEBI from the company, the reports/responses/disclosures of Stock exchanges, the observations in Statutory Audit Report and Annual report of the company and internal emails/letters, as detailed in the interim order. As the statements and findings in the PW UK Report are otherwise substantiated or corroborated by other independent information, the reliance placed on the third party report cannot be said to be improper. It is relevant, in this connection to mention that the subject report in the instant matter is a specific purpose forensic report prepared by qualified professionals recognized by and registered with statutory bodies in the respective jurisdiction. Globally, as a matter of practice, forensic investigations relating to accounting frauds are being done by qualified accountants. The expertise of accounting firms to carry out such investigations has been widely recognized. In a case where the findings of such third party investigations give specific inputs to the regulator which upon verification from other sources also stands factually confirmed, then the question of such reliance becomes merely academic. There is no mandate that every action of the regulator needs to originate from its own investigation or examination. On the other hand, as a regulator, it becomes imperative to

initiate action against the perpetrators of a wrong doing, even if the same has been brought out through any other source or agency, if such regulator finds merit therein. Further, the Noticees were provided with copies of the PwC Report and they were given sufficient opportunities through personal hearings and written submissions to defend their case effectively, thus ensuring full play of principles of natural justice.

16. Noticee no. 1, Shri Vijay Mallya, has also contended that the forensic report of PwC which has reported diversion of funds of USL during 2010 to 2012 suffers from conflict of interest as PwC was the statutory auditor of USL during 2009-10 and 2010-11, during which time it had not raised any such concern. In this regard, I note that had it been the case, PwC would have attempted to cover up the discrepancies pertaining to the period when it was the statutory auditor rather than pointing them out in its forensic report later, jeopardizing its own image as an auditor. Thus, I do not find any merit in the arguments of the Noticees in this regard.
17. As regards the first issue of whether there was diversion of funds or not, I note that the interim order alleges that an amount of Rs.655.55 Crores was diverted from USL to UB Group entities by USL first providing funds to TMUs/PREs as advances for projects/business expansion between 2010 to 2013, which in turn transferred these funds to UB Group entities. Similarly, trade receivables to USL from its distributors were indirectly used for funding the UB Group entities (i.e. trade receivables were withheld by distributors pending recovery of loans from UB Group entities, as in the case of Wave Industries Pvt. Ltd). These TMUs/PREs/Distributors had later refused to provide balance confirmation of their payables to USL on the ground that they were yet to receive funds provided by them to UB Group entities.
18. I note that the transactions indicating fund flow from USL to TMUs or the distributors as alleged in the interim order have not been disputed. In this regard, the Noticees have repeatedly contended that the TMUs/PREs/Distributors' transactions with the UB Group entities were independent transactions and that the advances to TMUs/PREs and trade receivables from the distributors were recoverable from them. However, I note that the

TMUs/PREs/Distributors were merely acting as a conduit between USL and the UB Group entities for routing of funds. The Noticees have vehemently contended that the amounts advanced are recoverable from the TMUs or the distributors. For this purpose, they have relied upon minutes of the interviews held by Shri Murali with various TMUs and Distributors, as annexed to his reply to the interim order. They have also relied on certain absolute and unconditional confirmations received from certain other TMUs/distributors during the same period. However, the recoverability of the funds from TMUs/PREs/Distributors can, at best, be treated as a defence to salvage the situation post the transaction. The same does not in any way strengthen the argument of the Noticees that these are totally independent transactions and that the same needs to be given the benefit of not being treated as part of diverted funds. While considering the issue of whether or not there has been a diversion of funds from a listed entity to its associates or group entities, the aspect of legal recoverability of the sums advanced by USL and the decision of USL not to recover these funds is not material. I note that recoverability of such advances/trade receivables does not have a bearing on the nature of such transactions. The practice of indirect funding of the UB group entities from USL's fund on the pretext of granting advances to TMUs/PREs which did not get reflected in USL's books of accounts as exposure to UB Group entities amounts to diversion of funds. I further note that through such diversion of funds to UB Group entities via the TMUs/PREs, USL was misrepresenting its real exposure to UB Group entities. Such diversions of funds from a listed entity jeopardizes the interests of its public shareholders and all the more so when such diversions are kept away from watchful eyes of shareholders by using conduits to obfuscate the trail of funds. All these circumstances point to the fact that there was indeed a diversion of funds from USL to UB Group entities.

19. As regards the role of the Noticees in the diversion of funds, I note that the Noticees had different roles within USL. Accordingly, the role of each of the Noticee has to be analyzed vis-à-vis the evidences cited against him.
20. As regards the Noticee no. 6, Shri Paramjit Singh Gill, I note that he was the President-All India Operations of USL. He is alleged to have the knowledge and involvement in the

transaction with distributors. The interim order refers to two emails in this regard. The first one dated January 05, 2012 is from Shri Ashok Capoor to Shri Ainapur S.R. regarding a letter to be given to Wave by Shri Ashok Capoor authorizing Wave to withhold Rs.190 Crores due to USL. The said email refers to a discussion with Shri Gill regarding the letter and a copy of the email is marked to Shri Gill. Vide the second email dated January 05, 2012, Shri Gill instructed Shri Ainapur S.R., Noticee no. 7, “*to do the needful as advised*”. I note that the Noticee no. 6 was merely an employee of USL. I also note that there is not sufficient material to establish that Shri Gill was involved in the decision making process pertaining to the said transactions. I further note that USL in its letter dated February 27, 2017 to SEBI has informed that its Internal Committee (IC), which looked into the roles of various employees in the alleged transactions, noted that Shri Gill’s position did not involve him in or give him access to information relating to the transactions between the company and other UB Group companies and that in the instances where he was named in the PwC Report, he was clearly instructed by USL’s Chairman, Shri Mallya, and its CFO Shri Murali. From the same, it is amply clear that the Noticee was not involved in the decision regarding sending of letter to Wave and the Noticee no. 6 and it appears that he was acting on the instructions of his superiors. I am thus inclined to drop all the charges levelled in the interim order against Shri Paramjit Singh Gill, the Noticee no. 6.

21. As regards Shri Sowmiyanarayanan (Noticee no. 3), Shri S.N. Prasad (Noticee no. 4), Shri Ainapur S.R. (Noticee no. 7), I note that they were Assistant Vice President (Accounts), Senior Vice President (Finance & Accounts) and Divisional Vice President (Accounts) respectively in USL. I further note that similar to the case of Shri Paramjit Singh Gill (Noticee no. 6), the said persons have been charged in the interim order based on certain email communications by/to them where the alleged transactions are referred to. I note from their submissions that they were merely carrying out the instructions of their higher ups. There were functional hierarchies above their position, to which they were reporting to. The Noticee nos. 3, 4 & 7 have repeatedly submitted that they had no decision making power in carrying out the transactions. I also note from USL’s letter dated February 27, 2017 to SEBI that its Internal Committee had noted that Shri S.N. Prasad, Shri Sowmiyanarayanan and Shri Ainapur S.R. had apparently acted under the directions of senior officers (who were part of USL’s management at that time) and had not independently

undertaken the actions. Considering the same, I am not inclined to proceed with the charges against the Noticee nos. 3, 4 and 7.

22. As regards the case of the Noticee no. 5, Shri P.A. Murali, I find that he was the CFO at the time of the alleged transactions. In respect of Shri Murali, the interim order refers to email dated July 11, 2012 from Shri Murali to Shri Ashok Capoor, in order to indicate Shri Murali's involvement in diversion of funds from USL to UB Group. However, it is noted that in the said email, Shri Murali specifically refers to the instructions from Shri Vijay Mallya to do so. It is further noted that prior to the said email dated July 11, 2012, Shri Murali vide his email dated July 09, 2012 to Shri Mallya, had written a long letter and had protested against providing funds to KFA. In response to this, Shri Mallya, vide email dated July 10, 2012 had written *inter alia* the following to Shri Murali: "*You do not have to make effort of repeating USL's problems, which I am fully aware of. As Chairman of not only USL, I have to take an overall Group view and decide what is best.*" I further note that the interim order, in respect of Shri Murali's role in fund diversion, itself notes that "*He appeared to have acted under the directions of Mallya to arrange funds.*" Further, I note from Shri Vijay Mallya's email dated April 19, 2012, addressed to Shri Murali, that Shri Mallya has written –"*1. You are aware of my compulsion to keep KFA flying. Any slippage will be disaster for the Group. 2. To set the record straight, I confirm that you have been acting under my direct authorization for which I take responsibility.*" From the above emails, it appears that Shri Murali was acting under the directions and instructions of Shri Mallya, the Chairman of USL. However, the said emails whereby he raised objections also indicate that as CFO of USL, he was aware of the consequences of following the instructions of Shri Mallya. I am of the opinion that being in the senior position of the CFO in the company, he should not have succumbed to pressure from Shri Mallya in respect of the transactions which resulted in diversion of funds of the company to other entities. In these circumstances, I find that Shri P.A. Murali is indirectly responsible for letting diversion of funds happen from USL.
23. As regards Shri Ashok Capoor (Noticee no. 2), it is alleged that being the Managing Director of USL, he had knowledge that USL was providing financial support to KFA and at times, the company was borrowing monies from the banks to provide such support. In this regard, the interim order refers to an email dated May 22, 2011 sent by Shri Capoor to

Shri Mallya, with a copy to Shri P.A. Murali. From the emails referred to in the interim order, it appears that Shri Ashok was aware of routing of funds from USL to UB Group entities through TMUs. However, the interim order refers to an email dated July 13, 2012 of Shri Capoor whereby he had informed Shri Vijay Mallya that it was not possible for USL to support UB Group companies to meet any of their needs and in fact, USL needed support from UB Group companies in those circumstances. It is noted that Shri Mallya, in his response vide email dated July 18, 2012 had written – *“I know the USL position exactly. It is my final call. If you cannot accept my instructions, you are free to decide your further steps... but let me repeat, my call is final and an instruction.”* From the same, I note that though Shri Capoor was MD of USL, he was acting under the instructions of Shri Vijay Mallya, the Chairman of USL and UB Group, who had instructed Shri Capoor with respect to his plan of action. However, considering the fact that Shri Capoor was the Managing Director of USL, he had a duty to protect the interests of the company by doing what was right for the company instead of succumbing to the pressure from Shri Mallya. He cannot evade his responsibilities completely. In these circumstances, I find that Shri Ashok Capoor, Noticee no. 2, is indirectly responsible for letting diversion of funds happen from USL.

24. Having concluded as above regarding Shri PA Murali and Shri Ashok Capoor, I am of the view that officials occupying key positions, such as that of the CFO and MD etc. of a listed company are obligated to take care of the interest of the company and the shareholders' interest. Professionals holding such positions in such companies are accountable for all their acts of omissions and commissions, which adversely impact shareholders' impact. It is not the case of these two Noticees that they were not aware of the onward transfer of funds to other UB group companies by the TMUs and or the distributors. On the contrary, the resistance raised by them itself proves that they had knowledge of the end use of such funds being transferred to the intermittent entities.
25. Having looked into the role of all other Noticees, it is now important to look into the role of Shri Vijay Mallya, the Noticee no. 1. From the records, I note that he was the Chairman of the UB Group. He was also the Chairman and Non-executive Director of USL. As per the PwC Report, there was a total diversion of Rs.655.55 Crores from USL to the

companies of UB Group in the guise of advances to TMUs/PREs of USL. The modus operandi of the fund diversion, as noted from the interim order, is as follows:

- USL first gave trade receivables/advances to distributors/TMUs/Project Related Entities and such advances were *inter alia* disclosed as amounts provided for working capital requirement, enhancement of capacities, lease deposits in the books of accounts of USL.
 - The funds were then transferred to UB Group companies under instructions from Mallya and other Key Management Persons.
 - The distributors/TMU/PRE of USL, refused to return the advances to USL stating the reason that the funds were due from the UB Group companies to whom they had forwarded the funds at the behest of Mallya. Further, the distributors/TMU/PRE of USL refused to return the said amounts till such time they receive the funds due from the UB Group companies.
 - In its Report, PWC–UK stated that one of the distributors, viz. Wave, in its defence relied upon letters dated January 5, 2012, signed by Mallya and Mr. Ashok Kapoor (the then-MD of USL), whereby it was permitted to withhold payments due to USL till such time it collects funds from the UB Group companies.
 - In its Report, PWC–UK also stated that the funds transferred by USL were ultimately transferred to a few companies in the UB Group. In one such instance, USL transferred ₹25 crore to a TMU namely Utkal on November 24, 2011 and the same was transferred by Utkal to KFA, on the same day. Similar instances of such fund diversions are also mentioned in the said report.
26. I note from records that out of Rs.655.55 Crores allegedly diverted from USL, an amount of Rs.224.08 Crores was owed to USL by Wave Industries Pvt. Ltd. (Wave), as trade receivables from distributors. It is noted from records that Shri Mallya had issued a letter dated January 05, 2012, authorizing Wave to withhold Rs.190 Crores due to USL till such time it collects funds from the UB Group companies. The same indicates that the trade receivables of USL from distributors were indirectly being used to fund the companies of the UB Group. I further note from various email communications referred to in the interim order that Shri Vijay Mallya had exerted pressure on the USL employees to arrange funds for KFA, even though KFA's financial credentials were highly suspect. The same is amply evident from the following emails:

- Vide email dated April 19, 2012 addressed to Shri PA Murali, Shri Mallya wrote the following:

“1. You are aware of my compulsion to keep KFA flying. Any slippage will be a disaster for the Group.

2. To set the record straight, I confirm that you have been acting under my direct authorization for which I take responsibility.

3. You are aware that I have been following up 3 fund raising proposals –

A) HDFC

B) Bank of Maharashtra

C) Pelican funding

The Pelican funding is to ensure that UBHL meets its obligations as well as to fund KFA.

4. As the Pelican funding is complex and time consuming despite best efforts, I am asking for interim funding support from USL. Once this is in place, UBHL can return funds to USL with the appropriate accounting entries.”

- Vide email dated July 10, 2012 addressed to Shri Murali, Shri Mallya wrote the following:

“The non-payment of salaries has become a very serious issue that needs to be addressed immediately today itself. KFA needs to start demonstrating some employee payments. Talk to Raghu (A. Raghunathan, CFO, KFA) and do the needful so that we keep the show on the road.”

- Vide an e-mail dated March 25, 2012, Mallya wrote to Ashok Capoor and PA Murali that KFA had significant dues towards the Income Tax Appellate Tribunal and instructed that USL *“would have to come up with ₹44 Crores, if needed.”*
- Mr. Ashok Capoor, vide an e-mail dated July 13, 2012, *inter alia* informed Mallya that it was not possible for USL to support UB Group companies to meet any of their needs and in fact, USL needed support from UB Group companies in those circumstances. In response, Mallya vide his e-mail dated July 18, 2012, stated that *“I know the USL position exactly. It is my final call. If you cannot accept my instructions, you are free to decide your further steps.... but let me repeat, my call is final and an instruction.”*

27. From the above emails, it is amply clear that Shri Vijay Mallya exerted pressure on the employees of USL to provide funds to UB Group entities directly and indirectly. The diversion of funds from USL adversely affected the balance sheet of USL. Further, the diversion of funds to UB Group entities in the guise of advances to TMUs/PREs has resulted in misleading information being published in books of accounts of USL.

28. The Noticees have vehemently argued that the charges of diversion of funds are not linked to dealing in securities and thus, cannot be said to have resulted in violation of the provisions of PFUTP Regulations. Besides this, the Noticees have also contended that diversion of funds is a matter falling under the jurisdiction of Serious Fraud Investigation Office and therefore, outside the ambit of powers conferred on SEBI under the SEBI Act, 1992. However, I note that any diversion of funds in a listed company ultimately has an adverse impact on the financial health of the company. Further, reporting of incorrect information in books of accounts also does mislead the investors in the securities market. In this regard, reliance is placed on the order of the Hon'ble Securities Appellate Tribunal, in a similar matter of *N. Narayanan vs. SEBI* (Date of Decision: 05/10/2012) where a very wide meaning has been given to the provisions of the PFUTP Regulations, even though it was contended that there was no dealing in securities. It was relevant to note that the said judgment was also in the context of financial misstatements of a listed company. The relevant part reads as below:

“The appellants’ learned counsel drew our attention to the provisions of the Act and FUTP Regulations and submitted that the appellants have not ‘dealt in’ the shares of the company, nor have they directly indulged in any device which would attract the provisions of the Act and the FUTP Regulations. We cannot accept the above contention. The provisions of section 12A of the Act and regulation 2(c) of the FUTP Regulations squarely cover the facts of the case. The appellants have employed a device so as to defraud investors in dealing in the securities. They have also perpetrated fraud as defined in regulation 2(c) of the FUTP Regulations. We cannot restrict the above provisions to the narrow confines of ‘dealing in securities’ as canvassed by the appellants’ learned counsel. The provisions of section 12A of the Act and the definition of fraud in regulation 2(c) of the FUTP Regulations are very wide in their scope and the device employed by the appellants squarely fall within the mischief.”

29. Further, in the instant case, the alleged transactions have taken place at a point of time preceding the preferential allotment of 10.04% shares of USL to Relay B.V. on May 27, 2013 and transfer of 14.98% shares of USL to Relay B.V. from United Breweries (Holdings) Limited, Kingfisher Finvest India Limited, SWEW Benefit Company, UB Sports Management Overseas Limited and Palmer Investment Group Limited on July 4, 2013 (under the shareholders’ agreement dated December 9, 2012 entered into between Relay B.V., Diageo Plc, United Breweries (Holdings) Limited and Kingfisher Finvest India Limited) subsequent to an open offer made by Relay B.V. to the public shareholders of USL.

30. As seen from the circumstances narrated in the foregoing paragraphs, though the statutory auditors as well as the shareholders of USL believed that the advances made to the TMUs/PREs/distributors were genuine, Noticee No. 1 as well as Noticee no. 2 and 5 were well aware of the fact that these transfers were, in reality, not advances, in the normal course of business.
31. In view of the above, I find that Shri Vijay Mallya, the Noticee no. 1, along with Shri Ashok Capoor (Noticee no. 2) and Shri P.A. Murali (Noticee nos. 5), has violated the provisions of Section 12A(c) of the SEBI Act, 1992 and Regulation 3(d), 4(1) and 4(2)(e) (f) & (k) of the PFUTP Regulations 2003.
32. In the context of diversion of funds perpetrated in a listed company by way of dubious and concealed financial statements/ projections or false books of accounts, it is inevitable that SEBI should step in and take appropriate action against the entities responsible for such misdeeds to maintain the integrity of the securities market as well as to protect the interests of the investors in the securities market.

Directions:

33. In view of the foregoing, I, in exercise of the powers conferred upon me in terms of section 19 read with sections 11(1), 11(4) and 11B of the SEBI Act, 1992, issue the following directions:-
- (a) Shri Vijay Mallya (Noticee no. 1) shall continue to be restrained from –
- (i) accessing the securities market and prohibited from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly/ indirectly for a further period of 3 years from the date of this order;
 - (ii) holding position as Director or Key Managerial Person of a listed company for a period of five years from the date of this order.

- (b) Shri Ashok Capoor (Noticee no. 2) shall continue to be restrained from –
- (i) accessing the securities market and prohibited from buying or otherwise dealing in securities in any manner whatsoever, either directly or indirectly, for a further period of 1 year from the date of this order. However, he may sell/redeem/liquidate the securities held by him as on date, and utilize the proceeds thereof.
 - (iii) holding position as Director or Key Managerial Person of a listed company for a period of 1 year from the date of this order.
- (c) Shri P.A. Murali (Noticee no. 5) shall –
- (i) continue to be restrained from accessing the securities market and prohibited from buying or otherwise dealing in securities in any manner whatsoever, either directly or indirectly, for a further period of 1 year from the date of this order. However, as permitted vide SEBI Order dated February 15, 2018, Shri P.A. Murali may sell/redeem/liquidate the securities held by him as on date, and utilize the proceeds thereof.
 - (ii) be restrained from holding position as Director or Key Managerial Person of a listed company for a period of 1 year from the date of this order.
- (d) The prohibitory directions issued against Shri Sowmiyanarayanan (Noticee no. 3), Shti S.N. Prasad (Noticee no.4), Shri Paramjit Singh Gill (Noticee no. 6) and Shri Ainapur S.R. (Noticee no. 7) vide the interim order dated January 25, 2017 read with Order dated February 15, 2018 shall stand vacated.
34. This order shall come into force with immediate effect.
35. Copy of this Order shall be forwarded to the recognized stock exchanges and depositories for information and to ensure compliance with above directions.

DATE: JUNE 01, 2018

PLACE: MUMBAI

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA