

SECURITIES AND EXCHANGE BOARD OF INDIA

INTERIM ORDER CUM SHOW CAUSE NOTICE

UNDER SECTIONS 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992, IN THE MATTER OF –

SR. NO.	NOTICEES	CIN / DIN	PAN
COMPANY			
1.	Grass Root Finance & Investment Company (India) Limited	U65929AS1995PLC004588	-
PROMOTERS / DIRECTORS			
2.	Jiten Chandra Bora	01347671	-
3.	Jagneswar Saikia	01808487	-
4.	Karuna Borah	01808524	-
5.	Gopi Bhuyan Ram	06947690	-
6.	Harisa Goyari	06947715	-
7.	Bikash Roy	06947748	-
8.	Pradip Sarmah	06964274	-
9.	Keshab Gogoi	02491179	-
10.	Bhupen Burha Gohain	-	-
11.	Pradip Hazarika	-	-
12.	Minaram Hazarika	-	-
13.	Guluk Gogoi	-	-
14.	Khargeswar Das	-	-

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1. Securities and Exchange Board of India ("SEBI") received a reference dated January 04, 2017 from Reserve Bank of India against M/s. Grass Root Finance & Investment

Company (India) Limited (“Grassroot” or “the company” in short) whereby it was *inter alia* informed that the company was earlier registered with RBI as a non-deposit taking non-banking financial company (NBFC) and its certificate of registration was cancelled on April 05, 2003. The reference further informed that the company had issued shares to a large number of persons, apparently in violation of SEBI Laws relating to private placement of shares.

2. As a matter of preliminary inquiry, SEBI through letter dated January 12, 2017 issued to Grassroot; letters dated January 19, 2017 issued to Grassroot’s directors, namely Shri Jiten Chandra Bora, Shri Gopi Bhuyan Ram, Shri Harisa Goyari, Shri Bikash Roy and Shri Pradip Sarmah and letters dated January 30, 2017 issued to Grassroot’s directors, namely Shri Jagmeswar Saikia and Shri Karuna Borah, sought the following information –

- a) Copy of Prospectus / Red Herring Prospectus/ Statement in lieu of prospectus/ Information memorandum filed with RoC for issuance of equity/debentures/preference shares.
- b) Copy of the Memorandum and Articles of Association of the company.
- c) Copy of audited Balance Sheet and Profit & Loss account of the company for last 3 years.
- d) Name, addresses and occupation of all the promoters/directors of the company
- e) Names and details of the Key Managerial Personnel of the company.
- f) Other information in respect of every series of debentures/ Preference shares issued by the company, as given below:
 - i) Date of opening and closing of the subscription list for the said debentures/preference shares
 - ii) Details regarding the number of application forms circulated inviting subscription for debentures/ preference shares
 - iii) Details regarding the number of applications received
 - iv) Details regarding the number of allottees and list of such allottees
 - v) Number of debentures allotted and value of such allotment against each allottee’s name

- vi) Details regarding subscription amount raised
- vii) Date of allotment of the debenture/ preference shares
- viii) Copies of the minutes of Board/committee meeting in which the resolution has been passed for allotment
- ix) Date of dispatch of debenture certificates etc.
- x) Details of the total number of applicants for each of its scheme besides the list of final allottees.
- xi) Copies of application forms, pamphlets, advertisements and other promotional material circulated for issuance of debentures/ preference shares
- xii) Terms and conditions of the issue of debentures/ preference shares

3. Thereafter, Shri Jiten Chandra Bora, Managing Director of Grassroot, vide letter dated January 30, 2017 submitted that Grassroot has not issued equity shares, preference shares and debentures during that year and though share application money was received from its standing shareholders in the previous year, the same had been returned back during the year. It further submitted that no share application money was outstanding during the year 2016-17. Shri Bora, vide the said letter, also submitted partial information in the form of copies of MoA and AoA of the company, copies of audited balance sheet and profit and loss account for year 2013-14, 2014-15 & 2015-16 and details of directors and key managerial persons of the company.
4. SEBI vide letter dated February 03, 2017 sought details of allotment of equity shares since incorporation of the company, the list of names of shareholders for each allotment year and the details and proof of repayment of money to shareholders, as claimed in its letter dated January 30, 2017. In response to the same, Grassroot, vide letter dated February 17, 2017 undertook to submit the required information as soon as possible. Thereafter, Grassroot vide letter dated February 23, 2017 submitted documents purported to be proof of refund of share application money. SEBI vide letter dated March 14, 2017 again advised Grassroot to submit copy of the annual returns of the company and the list of shareholders for every annual return filed so far since 1995. Subsequently, Grassroot vide letters dated

March 20, 2017 and March 27, 2017 submitted a list of a total of 9321 shareholders to whom Grassroot had issued a total of 680000 equity shares during 1995 to 2007 for a total amount of Rs.6.80 Crores. Thereafter, Grassroot vide letters dated April 01, 2017 and April 13, 2017 *inter alia* submitted annual returns of the company for various years.

5. In the meantime, information regarding Grassroot was obtained from the Ministry of Corporate Affairs' website i.e. *MCA 21 Portal*. On examination of the information and documents submitted by the company, the information obtained from MCA 21 Portal and other material available on record, the following are observed regarding Grassroot—

- i. **Date of Incorporation:** 11.10.1995
- ii. **Type of Company:** Public Limited Company
- iii. **Corporate Identity Number (CIN):** U65929AS1995PLC004588
- iv. **PAN:** Not available
- v. **Registered Office Address:** Shilapathar Likabari Road, P.O. Silapathar, District-Dhemaji, Assam.
- vi. **Date of filing of Last Annual Accounts and Annual Reports –** 31.03.2015.
- vii. **Total Issued Capital of the Company(As on March 31, 2015):**
 - i. Equity Shares : 6,80,000 Shares @ Rs. 100/- each
 - ii. Preference Share : NIL
- viii. **Allotment details as per information provided by the company to SEBI:**

Details of equity shares Issued

Table 1

Year	Date of allotment	Type	No. of Shares	No. of allottee	Amount (Rs.)	Total No. of Persons
1995-96	11/10/1995	Equity	60	6	6000	6
1995-96	24/02/1996	Equity	2000	2	200000	8
1998-99	18/01/1999	Equity	26401	556	2640100	564
1998-99	21/01/1999	Equity	1539	67	153900	631
1999-00	23/09/1999	Equity	32637	461	3263700	1092
1999-00	23/12/1999	Equity	26148	401	2614500	1493

1999-00	27/12/1999	Equity	62215	909	6221500	2402
2000-01	06/04/2000	Equity	38022	324	3802200	2726
2000-01	23/05/2000	Equity	25981	300	2598100	3026
2000-01	21/12/2000	Equity	26351	439	2635100	3465
2000-01	23/12/2000	Equity	26145	434	2614500	3899
2000-01	27/12/2000	Equity	29656	683	2965600	4582
2000-01	08/03/2001	Equity	62277	923	6227700	5505
2000-01	12/03/2001	Equity	48035	463	4803500	5968
2000-01	15/03/2001	Equity	63185	770	6318500	6738
2000-01	20/03/2001	Equity	68496	619	6849600	7357
2001-02	15/01/2002	Equity	30163	527	3016300	7884
2002-03	21/03/2003	Equity	60692	798	6069200	8682
2006-07	15/03/2007	Equity	50000	639	5000000	9321
	TOTAL		680000	9321	68000000	9321

6. It is observed from the information submitted by the company to SEBI that the company has issued *equity shares* to a total of 9321 persons during the financial year 1995-96 to 2006-07 and has raised a total of Rs.6.80 Crores through such issuance. From the above table, it is clearly evident that Grassroot has issued equity shares to more than 49 persons in the Financial Years 1995-96, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03 and 2006-07.

ISSUES FOR DETERMINATION

7. In the context of the details of the offer and allotment of equity shares mentioned in the Table at paragraph 5 above (hereinafter referred to as "*the offer and allotment of equity shares*"), the issue for determination in the instant matter is whether the mobilization of funds by Grassroot through the offer and allotment of equity shares, is in accordance with the provisions of the SEBI Act, 1992 and the Companies Act, 1956.

RELEVANT PROVISIONS OF LAW AND PRIMA FACIE FINDINGS

8. Section 67 of the Companies Act, 1956 deals with the conditions or circumstances under which an offer of shares/debentures by a company would be construed as one made to the public. Extracts of the relevant provisions of section 67 of the Companies Act, 1956, dealing with offer of shares or debentures to the public, are reproduced as under:

"Construction of reference to offering shares or debentures to the public, etc.

67. (1) *Any reference in this Act or in the articles of a company to offering shares or debentures to the public shall, subject to any provision to the contrary contained in this Act and subject also to the provisions of sub-sections (3) and (4), be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.*

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

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

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

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

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

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

9. In order to ascertain whether the *offer and allotment of equity shares* by Grassroot would qualify to be a public offer, the same has to be tested in light of the provisions of Section 67 (3) of the Companies Act, 1956. In terms of the first proviso to section 67(3), an offer of shares or debentures made to fifty persons or more would constitute an offer to the public. I note that the first proviso to Section 67(3) of the Companies Act, 1956 has been inserted with in the said provision by the Companies (Amendment) Act, 2000 with effect from 13.12.2000. In this regard, it is observed from the information submitted by Grassroot to SEBI (ref: Table-1 under para 5 above) that the company, after coming into effect of the first proviso to Section 67(3), has offered and allotted equity shares to more than 49 persons during each of the Financial Years 2000-01, 2001-02, 2002-03 and 2006-07. I note from the reference received from the Reserve Bank of India (RBI) that the company was registered with RBI as non-deposit taking Non-Banking Financial Company (NBFC) till April 05, 2003. However, I observe that even if the company was registered as an NBFC till April 05, 2003, the exceptions provided in the *second proviso* to Section 67(3) of the Companies Act, 1956 would have been available to the company only if the equity shares were allotted on private placement basis. Further, even prior to insertion of the first and second proviso within Section 67(3), any offer of shares and debentures to public, which was not done on private placement basis would have amounted to public issue. I note that there is nothing on record to suggest that the allotments of equity shares by the company during the period from 1995-96 to 2006-07, as mentioned in Table-1 above, were done on private placement basis. Therefore, on the basis of available information recorded above, each *offer and allotment of equity shares* by Grassroot, as mentioned in the Table-1 under para 5 above, *prima facie* qualifies to be construed as an offer made to the public in terms of section 67(3) of the Companies Act, 1956.

10. From the above, it will follow that such public issues make it imperative for Grassroot to comply with the mandate of Section 73 of the Companies Act. Relevant extract of Section 73 of the Companies Act, 1956 is reproduced as under:

"Allotment of shares and debentures to be dealt in on stock exchange.

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

(1A) ...

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

...." (emphasis supplied)

11. As the *offer and allotment of equity shares* is, *prima facie*, a public issue in accordance with the provisions of the Companies Act, 1956, the same will attract the requirement for such shares to be dealt on a recognized stock exchange in terms of Section 73 of the Companies Act, 1956, as stated above. I find that Grassroot is *prima facie* in breach of the provisions of Section 73 as well.
12. Further, in connection with a public issue, Section 56 of the Companies Act, 1956 mandates that the prospectus issued by a company shall state the matters specified

thereunder and Section 60 of the Companies Act, 1956 mandates registration of such prospectus with the ROC. I find that there is no evidence on record to indicate that Grassroot has complied with the provisions of Sections 56 and 60 of Companies Act, 1956, in respect of the *offer and allotment of equity Shares*. In view of the same, I find that Grassroot is *prima facie* in breach of the provisions of Sections 56 and 60 of the Companies Act, 1956 in connection with the subject offer and allotment of preference shares.

13. I observe that the company, by making public issue of equity shares apparently without complying with the abovementioned provisions of the Companies Act, has also *prima facie* violated the following clauses of the SEBI (disclosure and Investor Protection) Guidelines, 2000:

- a) Clause 2.1.1. (Filing of offer document)
- b) Clause 2.1.4 (application for listing)
- c) Clause 2.1.5.(issue of securities in dematerialized form)
- d) Clause 2.8. (Means of finance)
- e) Clause 4.1.(promoters contribution in a public issue by unlisted companies),
- f) Clause 4.11. (Lock-in of minimum specified promoters contribution in public issues)
- g) Clause 4.14 (Lock – in of pre – issue share capital of an unlisted company)
- h) Clause 5.3.1(memorandum of understanding with merchant banker)
- i) Clause 5.3.5 (undertaking)
- j) Clause 5.3.6 (list of promoters group and other details)
- k) Clause 5.6 (offer document to be made public)
- l) Clause 5.6A (Pre – issue Advertisement)
- m) Clause 5.9.1.(minimum number of collection centres)
- n) Clause 5.12.1. (appointment of compliance officer)
- o) Clause 6.1 to Clause 6.19 (contents of prospectus)
- p) Clause 6.20 to Clause 6.38 (contents of abridged prospectus)
- q) Clause 8.3 (Rule 19(2)(b) of SC(R) Rules, 1957)
- r) Clause 8.8.1 (Opening & closing date of subscription of securities)

14. In terms of Section 73(2) of the Companies Act, the company and every director who is an officer in default is jointly and severally liable for repayment of the money raised in breach of provisions of section 73(1). Further, in terms of Section 62 of the Companies Act, every person who *inter alia* is a director of the company at the time of the issue of the prospectus and every person who is a promoter of the company, are liable to pay compensation to every person who subscribes for any shares or debentures on the faith of the prospectus for any loss or damage he may have sustained by reason of any untrue statement included therein. As per the information available on the MCA Portal and the documents submitted by the company to SEBI, the details of the present and past directors / promoters of Grassroot, including the dates of appointment/cessation as directors, are as under:

Table-2

Sr. No	Name of director	Designation	DIN / DPIN	Residential Address	Date of appointment	Date of cessation
1	Jiten Chandra Bora	Director & Promoter	01347671	S/o Shri Uwaram Bora, Village – Kalmouguri, P.O. Kalmouguri, P.S. Gohpur, Sonitpur District Assam– 784178	11/10/1995	Present Director
2	Jagneswar Saikia	Director	01808487	Village Sonalibori, Bordup, P.O. Sonalibori, Sonitpur – 784178 Assam	11/10/1995	Present Director
3	Karuna Borah	Director	01808524	Village Karchantala, P.S. Karchantala, Sonitpur – 784178 Assam	11/10/1995	Present Director
4	Gopi Bhuyan Ram	Director	06947690	S/o Hem Bhuyan, Vill – Rajbari, P.S. – Bihpuria, Sub-divn. – North Lakhimpur, Lakhimpur Assam – 785014	24/07/2014	Present Director

5	Harisa Goyari	Director	06947715	S/o Kameswar Goyari, Vill – Bhalmanuhor, Vitha P.S. – Patacharkuchi, P.O. – Golagaon, Baksa Assam – 781326	24/07/2014	Present Director
6	Bikash Roy	Director	06947748	S/o Gajen Roy, Vill – Nityananda, Panbari P.O. – Nityananda, P.S. – Patacharkuchi, Barpeta Assam – 781329	24/07/2014	Present Director
7	Pradip Sarmah	Director	06964274	S/o Sarat Sarmah, Vill- NA-Madhupur, P.S. – Dhakuakhana, Sub divn – Dhemaji, Dhemaji Assam – 787058	25/08/2014	Present Director
8	Keshab Gogoi	Director	02491179	S/o Saru Ram Gogoi, Dubia, Sonitpur Assam – 784178	11/10/1995	25/08/2014
9	Bhupen Burha Gohain	Promoter	N.A.	S/o Golap Burha Gohain, Village Silapathar, Mazgaon, PO Silapathar, Assam	N.A.	N.A.
10	Pradip Hazarika	Promoter	N.A.	S/o Poramananda Hazarika, Village Nilakh Takowani, PO Palengi, District Dhemaji – 787059	N.A.	N.A.
11	Minaram Hazarika	Promoter	N.A.	Vill- Nilakh Tokowarri, Dist- Dhemaji, Assam	N.A.	N.A.
12	Guluk Gogoi	Promoter	N.A.	Vill- Silapathar, Mazgaon, Dist- Dhemaji, Assam	N.A.	N.A.
13	Khargeswar Das	Promoter	N.A.	Vill- Kapahua, P.O. Khubalia, Dist- Dhemaji, Assam	N.A.	N.A.

15. I note that the persons at serial nos. 1 to 7 in the Table-2 above are the present directors and continue to be responsible for the affairs of Grassroot. Person at serial no. 1 is also one of the promoters of the company. Further, the person at serial no. 8 in the above table was a director of Grassroot either during the issuance of equity shares by the company or

thereafter and the persons mentioned at sl. nos. 9 to 13 in the above Table-2 are the promoters of Grassroot. Hence, they are liable for the alleged contraventions.

DIRECTIONS

16. From the information submitted by Grassroot to SEBI, it can be reasonably inferred that the money mobilization on the part of Grassroot is potentially placing investors at risk by not following the requirements of law applicable to a public issue. In the light of the facts in the instant matter, I find this to be a fit case to pass interim directions against Grassroot and the above named promoters / directors. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11, 11(4) and 11B of the SEBI Act, 1992 hereby issue, with immediate effect, the following directions, which shall remain in force until further orders:-
- i. The Noticee nos. 1 to 14 i.e. Grassroot and its above named promoters / directors, viz. Shri Jiten Chandra Bora, Shri Jagneswar Saikia, Shri Karuna Borah, Shri Gopi Bhuyan Ram, Shri Harisa Goyari, Shri Bikash Roy, Shri Pradip Sarmah, Shri Keshab Gogoi, Shri Bhupen Burha Gohain, Shri Pradip Hazarika, Shri Minaram Hazarika, Shri Guluk Gogoi and Shri Khargeswar Das, shall not access the securities market or buy, sell or otherwise deal in the securities market, either directly or indirectly, or associate themselves with any listed company or company intending to raise money from the public;
 - ii. The Noticee nos. 1 to 14 i.e. Grassroot and the above named promoters / directors shall neither dispose of, alienate or encumber any of its/their assets nor divert any funds raised from public through *the offer and allotment of equity shares*;
 - iii. The Noticee nos. 1 to 14 i.e. Grassroot and the above named promoter / directors shall co-operate with SEBI and shall furnish all information/documents in connection

with the *offer and allotment of equity shares* sought vide letters dated January 12, 2017; January 19, 2017 and January 30, 2017.

17. The preliminary findings contained in paragraphs 9, 11, 12 & 13 of this Order are made on the basis of the information submitted by Grassroot to SEBI. Grassroot and the above named promoters / directors are hereby called upon to show cause as to why suitable directions/prohibitions under Sections 11, 11(4), and 11B of the SEBI Act should not be issued/imposed, including the following directions, namely:-
 - i. That the Noticees shall jointly and severally refund the money collected through the *offer and allotment of equity shares*, with an interest of 15% per annum (the interest being calculated from the date when the repayments became due in terms of Section 73(2) of the Companies Act, 1956 till the date of actual payment), supported by a certificate of two independent Chartered Accountants to the satisfaction of SEBI (to be submitted to SEBI within 7 days of completion of the refund); and
 - ii. That the Noticees shall be restrained / prohibited from accessing the securities market and buying, selling or otherwise dealing in securities in any manner whatsoever, directly or indirectly, for a period of four years from the date of completing the refund as directed above.
18. The Noticees, may, within 21 days from the date of receipt of this interim order -cum-show cause notice, file their respective replies. The Noticees are directed to furnish an inventory of their assets in their reply. In the event the Noticees intend to avail an opportunity of personal hearing, they may do so by seeking a confirmation in writing from SEBI for the same within 90 days from the date of receipt of this Order. In the event of the Noticees failing to file replies or requesting for an opportunity of personal hearing within the said 90 days, the preliminary findings at paras 9, 11, 12 & 13 of this Order and

directions at para 17 (i) and (ii) above shall become final and absolute against the Noticees automatically, without any further orders. The Noticees shall comply with the directions at para 17 (i) above within a period of 90 days from the date of this Order becoming final. Upon the expiry of the period of 90 days from the date of this Order becoming final, if the Noticees fail to comply with the directions at para 17 above, SEBI may initiate appropriate enforcement action under SEBI Act, 1992 including Recovery, Adjudication or Prosecution in addition to making a suitable reference to State Government / Local Police.

19. This Order is without prejudice to any other action that SEBI may initiate under securities laws, as deemed appropriate.
20. Copy of this Order shall be forwarded to the recognized stock exchanges and depositories for information and necessary action. A copy of this Order may also be forwarded to MCA/concerned RoC for their information and necessary action with respect to the directions imposed on the company and its directors and promoters.

Place: Mumbai

Date: October 18, 2017

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