

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

FINAL ORDER

Under Sections 11, 11(4), 11A and 11B of the Securities and Exchange Board of India Act, 1992 read with Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2003 in the matter of Helios Corporation Limited and Helios Chemicals Limited

In respect of:

Serial no.	Entity Name	PAN/Address	DIN/CIN
1.	Helios Corporation Limited	2nd Floor, Maharani Complex,	U65191BR1995PLC006839
2.	Helios Chemicals Limited	Anishabad, PS Gardanibag, Patna, Bihar – 800001	U24110BR1994PLC005865
3.	Mr. Sanjay Kumar Singh	GEDPS5531B	01383164
4.	Mr. Rajeev Kumar Sharma	CISPS9854C	02700971
5.	Mr. Kaushal Kishor Singh	BXEPS6726H	02705837
6.	Mr. Basant Kumar Singh	BHSPS7697K	02700926
7.	Mr. Sanjeet Kumar Sharma	AQAPS4323C	03549592
8.	Mr. Anjani Kumar	Not available	
9.	Mr. Virendra Prasad Sinha	Village Kundi, P.O. Daruara, Dist. Nalanda, Bihar – 803111	
10.	Mr. Govind Madhava Jha	Not available	
11.	Mr. Satyendra Singh	Addalbari, Near ITI, Hajipur, Dist. Vaishali, Bihar – 844101	
12.	Ms. Prema Kumari	Shiva Sadan, Indrapuri, Patna, Bihar – 800023	
13.	Mr. Devendra Prasad Singh	Village Narayanpur, PO-Bhatta Sarho, Dist. Saran, Bihar – 841401	
14.	Mr. Surendra Nath Singh		
15.	Ms. Krishna Devi		
16.	Mr. Rakesh Kumar	Mainpura, Patna, Bihar	
17.	Ms. Manju Pathak	Harmu, Ranchi, Jharkhand – 834002	

CASE FACTS

1. Helios Corporation Limited (hereinafter referred to as “**Helios Corporation**”) is a Public company incorporated on November 15, 1995 and registered with Registrar of

Companies–Patna (RoC) with CIN: U65191BR1995PLC006839. Its registered office is at 2nd Floor, Maharani Complex, Anishabad, PS Gardanibag, Patna, Bihar – 800001. Helios Chemicals Limited (hereinafter referred to as “**Helios Chemicals**”) is a Public company incorporated on April 28, 1994 and registered with Registrar of Companies–Patna (RoC) with CIN: U24110BR1994PLC005865. Its registered office is at 2nd Floor, Maharani Complex, Anishabad, PS Gardanibag, Patna, Bihar – 800001.

2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) undertook an enquiry to ascertain whether Helios Corporation and Helios Chemicals had made any public issue of securities without complying with the provisions of the Companies Act, 1956; Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) and the Rules and Regulations framed thereunder including the Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2003 (hereinafter referred to as “**DIP Guidelines**”).
3. As regards, Helios Corporation, it was observed that Reserve Bank of India vide press release dated July 14, 1997, had *inter alia* prohibited Helios Corporation from accepting deposits from any person including the existing depositors/certificate holders, in any form, whether by way of subscription/installment to any scheme conducted by it or by way of renewal under any such schemes/deposits or otherwise, with immediate effect. It was also observed that the Reserve Bank of India had filed a petition (Comp. Pet. No.04 of 2000) against Helios Corporation before the Hon’ble High Court of Judicature at Patna which appears to be pending.
4. On enquiry by SEBI, it was observed that Helios Chemicals and Helios Corporation are group companies. It was observed that Helios Corporation had made an offer of Optionally convertible Debentures (hereinafter referred to as “**Offer of OCDs**”) in the financial years prior to March 31, 2003, as well as financial years of 2003-2004 to 2008-2009 and raised an amount of Rs. 11,95,34,587 from more than 4,062 allottees. The number of allottees and funds mobilized has been collated from the records available on the *MCA21 portal* and the reply dated November 25, 2014 as filed by Helios Corporation. It was also observed that Helios Chemicals had made an Offer of OCDs in the financial years 2003-2004 to 2007-2008 and raised an amount of Rs. 7,99,85,000/- from the existing list of

4,810 allottees. The number of allottees and funds mobilized has been collated from the records available on the *MCA21 portal* and the reply dated January 22, 2015 as filed by Helios Chemicals. It was also stated in the said letter dated January 22, 2015 that details of additional existing bond holders for 11,267 bonds are misplaced.

5. As the above said *Offer of OCDs* was found *prima facie* in violation of respective provisions of the SEBI Act, 1992, the Companies Act, 1956, and the DIP Guidelines, SEBI passed an interim order dated November 20, 2015 (hereinafter referred to as “**interim order**”) and issued directions mentioned therein against Helios Corporation and Helios Chemicals, and its promoters/present Directors/past Directors of both Companies viz. Mr. Sanjay Kumar Singh, Mr. Anjani Kumar, Mr. Virendra Prasad Sinha, Mr. Govind Madhava Jha, Mr. Satyendra Singh, Ms. Prema Kumari, Mr. Devendra Prasad Singh, Mr. Rajeev Kumar Sharma, Mr. Kaushal Kishor Singh, Mr. Basant Kumar Singh and Mr. Sanjeet Kumar Sharma, Mr. Rakesh Kumar, Ms. Manju Pathak, Mr. Surendra Nath Singh and Ms. Krishna Devi (hereinafter collectively referred to as “**Noticees**”).
6. *Prima facie findings/allegations*: In the said interim order, the following *prima facie* findings were recorded.

Helios Corporation Limited

- i. As per the Memorandum of Association of Helios Corporation, the Main Objects of the said company stated that:

“(A) MAIN OBJECTS ...

1. ... to carry on the business of to develop and introduce amongst the masses the habit of savings by issue of saving scheme such as selling fixed endowment certificates, social, economic, child welfare family pension and such type of welfare savings endowment certificate and/ or also by small medium & large savings and to provide the scheme by declaring bonus, prizes and accidental insurance benefits which will be announced for aforesaid particulars and in circumstances of any change in schemes by the Company time to time for the purpose of savings and investments on large or small scale to be floated throughout the country unless otherwise permitted under the laws

of the land.

...

(B) The objects incidental or ancillary to the attainment of main objects are:

...

2. To receive money in any form, borrow or raise money on such terms and conditions as the company may consider expedient and secure and discharge any debt or obligation or binding on the company in such manner as may be thought fit ...or by the creation and issue, on such terms as may be thought expedient, of shares, bonds debentures or debentures- stock perpetual or otherwise, or other security of any description, subject to the provision of Section 58A of the Companies Act, 1956,

...

7. To guarantee the payment, unsecured or secured or payable under promissory notes, bonds, debentures, debenture-stock contracts, mortgages, charges, obligations, instruments and securities of any company or of any persons whomsoever whether incorporated or not incorporated or not incorporated, and generally to guarantee and become sureties for the performance of any contracts or obligations.

8. To borrow or raise money and secure and discharge any debt or obligation or binding on the company in such manner as may be thought fit, and in particular by mortgage of the undertaking and all or any of the immovable and movable property (present and future) and the uncalled capital of the company or by the creation and issue, on such terms as may be thought expedient of debentures or debenture-stock, perpetual or otherwise or other securities of any description, provided that the company shall not carry on banking business as defined in the Banking Regulation Act, 1949.

... (emphasis supplied)”

ii. As per the schedule to the Balance Sheet of Helios Corporation, for the financial year

2002-2003, Rs. 6,96,08,582/- was shown on account of ‘Sun Bond’ (described as ‘Unsecured but optionally convertible into shares, transferred from Child Welfare Fund’) (i.e. in the nature of OCDs) and Rs. 2,78,43,430/- was the ‘interest accrued and due’. In the ‘Significant Accounts Policies and Notes to the Accounts for the year ended March 31, 2003: Schedule- 10’ (part of the balance sheet for the financial year 2002-03), the auditor of Helios Corporation at Point 7 had stated that ‘*The company issued Sun Bond optionally convertible into shares to members, directors, friends, relatives and its associates by private placement in earlier years and the amount have been shown under the head of unsecured loans along with interest accrued and due there on.*

iii. As per the balance sheets of Helios Corporation, the company had issued unsecured ‘Sun Bonds’ or OCDs during various financial years. The year wise details of the amount raised have been tabulated as under:

Financial Year	Principal amount (Rs.) raised through issuance of ‘Sun Bonds’
Up to March 31, 2003	6,96,08,582
2003-04	10,000
2004-05	1,42,73,905
2005-06	2,49,70,100
2006-07	9,35,000
2007-08	43,60,000
2008-09	53,77,000
Total	11,95,34,587

As per the balance sheet for the financial year 2013-14, Helios Corporation has a liability of ₹11,92,02,021 as on March 31, 2014, on account of ‘Sun Bond’ issued by Helios Corporation including the interest accrued thereon. Helios Corporation has made allotments of OCDs to more than 4,062 allottees.

Helios Chemicals

i. As per the Memorandum of Association of Helios Chemicals, the Main Objects of the said company stated that:

“ ...

(B) The objects incidental or ancillary to the attainment of main objects are:

...

2. To borrow or raise or secure the payment of money by the issue of debenture bonus, obligation, deposit notes and securities of all kinds and to frame, constitute and secure the same, ...”

- ii. As per the balance sheets of Helios Chemicals, the company showed ‘long term borrowings’ on account of issuance of ‘Sun Bonds’ or OCDs. Helios Chemicals had admittedly raised a principal amount of Rs. 7,99,85,000 from more than 4,810 existing bond holders (as on January 15, 2015) during the financial years 2003-04 to 2007-08. The detail of the amount raised is as follows:

Financial Years	Principal amount (Rs.) raised through issuance of ‘Sun Bonds’
2003-2004 to 2007-2008	7,99,85,000

However, this details were of only the existing bond holders, as on January 15, 2015. Therefore, the total number of allottees who had been allotted OCDs is higher.

It has been stated in the said Balance Sheets that the liability of Helios Chemicals has decreased over the years from Rs. 14,21,01,300 as on March 31, 2009 to Rs. 7,99,85,586 as on March 31, 2014. Details are as given below:

Date	Liability (in Rs.)
March 31, 2009	14,21,01,300
March 31, 2010	11,88,79,456
March 31, 2011	9,36,00,021
March 31, 2012	8,37,46,401
March 31, 2013	8,24,85,321
March 31, 2014	7,99,85,586

7. The above *Offer of OCDs* and pursuant allotment were deemed public issue of securities under the first proviso to section 67(3) of the Companies Act, 1956. Accordingly, the resultant requirement under section 60 read with section 2(36), section 56 and section 73 of the Companies Act, 1956 and the relevant provisions of the DIP Guidelines were not complied with by Helios Corporation and Helios Chemicals, in respect of the *Offer of OCDs*.
8. In view of the *prima facie* findings on the violations, the following directions were issued in the said interim order dated November 20, 2015 with immediate effect.
- i. “The Companies namely Helios Corporation Limited [CIN: U65191BR1995PLC006839], Helios Chemicals Limited [CIN: U24110BR1994PLC005865] are restrained from mobilizing funds through the issue of **optionally convertible debentures (Sun Bonds)** or through any other form of securities, to the public and/ or invite subscription, in any manner whatsoever, either directly or indirectly till further directions;
- ii. **The Companies and their respective promoters/ directors/ past directors including Mr. Sanjay Kumar Singh [DIN: 01383164], Mr. Rajeev Kumar Sharma [DIN: 02700971], Mr. Kaushal Kishor Singh [PAN: BXEPS6726H; DIN: 02705837], Mr. Basant Kumar Singh [PAN: BHSPS7697K; DIN: 02700926], Mr. Sanjeet Kumar Sharma [PAN: AQAPS4323C; DIN: 03549592], Mr. Anjani Kumar, Mr. Virendra Prasad Sinha, Mr. Govind Madhava Jha, Mr. Satyendra Singh, Ms. Prema Kumari, Mr. Devendra Prasad Singh, Mr. Rakesh Kumar, Ms. Manju Pathak, Mr. Surendra Nath Singh and Ms. Krishna Devi** are prohibited from issuing prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, till further orders;
- iii. The Companies and their respective promoters and directors/ past directors are prohibited from issuing prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, till further orders;

- iv. The Companies and their respective promoters and directors/ past directors shall not dispose off any of the properties or alienate the assets of the Company or dispose off any of their properties or alienate their assets;
 - v. The Companies and their respective promoters and directors/ past directors shall not divert any funds raised from public at large through the issuance of the impugned equity shares, kept in its bank accounts and/ or in the custody of the Company without prior permission of SEBI until further orders;
 - vi. The Companies and their respective promoters and directors/ past directors are restrained from accessing the securities market and are further prohibited from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly or indirectly, till further directions;
 - vii. The Company and their respective promoters and directors/ past directors shall co-operate with SEBI and shall furnish all the documents that they have been or shall be required to furnish;
 - viii. The Companies and their respective promoters and directors/ past directors are also directed to provide a full inventory of all their assets and properties and details of all their bank accounts, demat accounts and holdings of shares/ securities, if held in physical form.”
9. The interim order also directed Helios Corporation Limited and Helios Chemical Limited and the above named promoters/ directors/ ex-directors to show cause as to why suitable directions/prohibitions under sections 11(1), 11(4), 11A and 11B of the SEBI Act read with 73(2) of the Companies Act, 1956 and the DIP Guidelines, including the following, should not be passed against them:
- i. “Directing them jointly and severally to refund the money collected through the issue of OCDs, (incorrectly written as “*equity shares*” in the interim order) that are impugned in this Order, along with interest at 15% per annum from the date when the refunds became due to the investors till the date of repayment;

- ii. Directing them not to issue prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, for an appropriate period;
 - iii. Directions restraining them from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period;
 - iv. Directing them and other companies in which their directors hold substantial or controlling interest, to not access the capital market for an appropriate period.”
10. Vide the said interim order, Helios Corporation Limited and Helios Chemical Limited and the above named promoters/ directors/ ex-directors were given the opportunity to file their replies, within 21 days from the date of receipt of the said interim order. The order further stated the concerned persons may also indicate whether they desired to avail themselves an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.
11. *Service of interim order:* The copy of the said interim order was sent to the Noticees vide letter dated November 26, 2015 delivery of which was acknowledged by Helios Corporation, Helios Chemicals, Mr. Surendra Nath Singh, Ms. Krishna Devi, Mr. Satyendra Singh, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Kaushal Kishor Singh, Mr. Basant Kumar Singh, Mr. Devendra Prasad Singh. Vide public notification dated November 11, 2016, in the newspapers *Hindustan Times*, and *Prabhat Khabar*, the order was served upon Ms. Manju Pathak. Vide public notification dated November 11, 2016 in the newspapers, *The Times of India* and *Hindustan*, the order was served upon Mr. Rakesh Singh, Ms. Prema Kumari, Mr. Sanjeet Kumar Sharma and Mr. Virendra Prasad Sinha. Order could not be delivered to Mr. Anjani Kumar and Mr. Govind Madhav Jha.
12. Thereafter, vide letter dated July 3, 2017, the Noticees were given an opportunity of personal hearing on October 25, 2017 before the Whole Time Member, SEBI which were delivered to Helios Corporation, Helios Chemicals, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Basant Kumar Singh, Mr. Sanjeet Kumar Sharma, Mr. Kaushal

Kishor Singh, Mr. Satyendra Singh, Mr. Devendra Prasad Singh, Mr. Surendra Nath Singh and Ms. Krishna Devi. The Notice for hearing was served on Mr. Rakesh Kumar, Ms. Prema Kumari, Mr. Virendra Prasad Sinha vide public notification in the newspapers *The Times of India* and *Hindustan* and on Ms. Manju Pathak vide public notification in the newspapers *The Pioneer* and *Hindustan* dated September 14, 2017 whereby an opportunity of personal hearing was being granted to them on at the time and the venue mentioned therein.

13. *Hearing and submissions:* pursuant to the interim order, Helios Corporation and Helios Chemicals vide joint reply dated December 18, 2015 submitted *inter alia*, that:

- a. Vide a Winding up Petition no. 4/2000 filed before the Hon'ble High Court of Patna, by the Reserve Bank of India (RBI), a provisional liquidator was appointed to liquidate the assets of Helios Corporation by an order dated May 19, 2000. The said order was challenged and was partially set aside to the extent of appointment of the provisional liquidator, by the order of February 13, 2001. However, the prohibition on the directors of Helios Corporation, from disposing the properties of the Company, which was imposed vide the said order of May 19, 2000 is still in operation.
- b. Since Helios Corporation was of the view that the Sun Bonds were allotted through private placement to friends/staff/relatives/associates and their related persons, regulatory requirements for public issue were not complied with.
- c. Efforts have been made by Helios Corporation to repay the investors and report thereof is being sent to the Hon'ble High Court of Patna in the pending Winding up petition filed by RBI. However, the repayment could not be completed as all plots of land belonging to the Company were put under ceiling by the Government of Bihar in 1998. The said action was upheld by the Hon'ble Supreme Court of India vide its order dated July 14, 2014, which is now pending review.
- d. The securities issued by Helios Corporation and Helios Chemicals is in the nature of Optionally fully convertible debentures.
- e. Mr. Virendra Prasad Sinha, Mr. Govind Madhav Jha and Ms. Prema Kumari were shareholders in Helios Corporation, and were not liable. Similarly, Mr. Anjani Kumar, Mr. Satyendra Singh, Mr. Devendra Prasad Singh and Mr. Sanjeet Kumar Sharma,

- who were past directors of Helios Corporation, were not liable. Further, Mr. Virendra Prasad Sinha and Mr. Anjani Kumar have expired.
- f. Vide letter dated November 25, 2014 to SEBI, Helios Corporation had submitted a certificate of Chartered Accountant about the repayment made to Bond Holders between the years 2004 to 2014, of Rs. 6,27,31,532/-. At present, the liability of repayment of Helios Corporation is of Rs. 7,86,47,986/- (principal) and Rs. 4,05,54,035/- interest accrued till March 31, 2014.
 - g. The number of existing bond holders list for settlement and repayment is approximately 4,062 with respect to Helios Corporation
 - h. With respect to Helios Chemicals, the Company has collected funds from friends/staff/relatives/associates and their related persons. Helios Chemicals has been repaying its bond holders regularly, but could not complete it, as the land belonging to Helios Chemicals could not be sold due to a restriction imposed by court of New Delhi at Saket. Further, there was a theft at the premises of Helios Chemicals which resulted in heavy losses for the Company.
 - i. Ms. Krishna Devi, Mr. Surendra Nath Singh, Mr. Virendra Prasad Sinha and Ms. Manju Pathak were only shareholders of Helios Chemicals and were therefore not liable for the actions of the Company.
 - j. The number of existing bond holders of Helios Chemicals left for settlement and repayment are 4,810.
 - k. Both Helios Corporation and Helios Chemicals have stopped collecting funds and were only repaying the investors as and when the claims were made. Both Companies have sought for a year's time to complete the repayments, as such time is required for resolving all the pending Court matters with relation to the assets of the Companies.
 - l. Bank account details of the present directors and of Helios Corporation and Helios Chemicals has been provided.
14. Vide letter dated December 23, 2015, Helios Corporation and Helios Chemicals jointly submitted the application of Mr. Surendra Nath Singh, Ms. Krishna Devi, Mr. Devendra Prasad Singh and Mr. Satyendra Singh. Mr. Surendra Nath Singh and Ms. Krishna Devi vide their application dated December 20, 2015, have submitted that they were never

appointed as a director of Helios Corporation or Helios Chemicals and are therefore not liable as per the interim order. Mr. Satyendra Singh vide his application dated December 21, 2015, has submitted that he resigned from the Company on July 12, 1997 and has submitted a copy of the RoC Cash Counter Receipt for the submission of the relevant Form 32. Vide application dated December 21, 2015, Mr. Devendra Prasad Singh has submitted that he resigned from Helios Corporation on June 20, 1997 and that he should not be held liable for issue of bonds after his resignation. He has submitted a copy of the RoC Cash Counter Receipt for the submission of the relevant Form 32, and also a copy of the acknowledgment of the resignation accepted by Mr. Sanjay Kumar Singh, Chairman of Helios Group.

15. Vide reply dated June 2, 2016, Mr. Sanjay Kumar Singh, has replied stating *inter alia*, that the interim order was received by Mr. Rajeev Kumar Sharma, Mr. Basant Kumar Singh, Mr. Kaushal Kishor Singh, Mr. Satyendra Singh, Mr. Devendra Prasad Singh, Mr. Surendra Nath Singh and Ms. Krishna Devi. Further, it was stated that Mr. Anjani Kumar, Mr. Virendra Prasad Sinha and Mr. Govind Madhav Jha had expired. While the death certificates pertaining to Mr. Govind Madhav Jha and Mr. Anjani Kumar were submitted, no death certificate was submitted with respect to Mr. Virendra Prasad Singh.
16. Vide reply dated November 30, 2016, Mr. Sanjeet Kumar Sharma submitted *inter alia*, that
 - a. He had made applications dated June 16, 2016, June 29, 2016, and September 7, 2016 wherein the said Noticee had brought to the notice of the RoC about the activities of Helios Corporation.
 - b. As per the submissions, *inter alia*, made in the aforesaid applications to the RoC, the Company was indulging in embezzling of its funds, executing sale deeds, and other activities by misusing the digital signature of the Noticee. Therefore, the Noticee filed a complaint before the Officer in Charge of the Budha Colony Police Station on May 5, 2013 with respect to misuse of his digital signature. An application dated June 13, 2013 was made to register FIR in this regard and FIR was lodged on November 15, 2013 vide Budha Colony P.S. Case No. 273/2013.
 - c. All the details submitted by the Company to the RoC from 2002 till the date of this

reply, were false and fabricated.

- d. That after the Noticee expressed his interest in inspecting documents pertaining to the Company, he was transferred out of Bihar, and then was made to resign from the directorship of the Company on the basis of fabricated resignation letter. Thereafter, FIR in connection with S.K. Puri P.S. Case no. 72/2013 was lodged on February 8, 2013 falsely accusing the Noticee.

17. Mr. Sanjay Kumar Singh appeared for the personal hearing on October 25, 2017 on behalf of Helios Corporation Limited, Helios Chemicals Limited and for himself along with Mr. Neeraj Kumar, Chartered Accountant and made oral submissions in line with the replies filed earlier, wherein it was submitted, *inter alia*, that:

- i. Before 2004, Helios Corporation Limited had raised about Rs. 6.96 crores through optionally convertible bonds, inclusive of principal amount and interest. After 2004, about Rs. 4 crores was raised as principal amount.
- ii. Till 2009, Rs. 2.37 crores was repaid of which Rs. 1.56 crores was interest. From 2009 to 2014, about Rs. 1.71 crores was repaid of which Rs. 62 lakh was interest.
- iii. Helios Chemicals Limited had raised Rs. 8 crores through optionally convertible bonds of which Rs. 1 crore has been repaid and Rs. 7 crores is pending for repayment.
- iv. Helios Corporation Limited owns land in Patna which is seized pursuant to a liquidation petition filed by Reserve Bank of India.
- v. Helios Chemicals Limited owns land in Delhi which is prohibited by Court order from being alienated pursuant to a CBI proceeding in the matter of Helios Finance Limited.

18. The entities were provided two weeks' time to submit, *inter alia*, the following additional documentary evidence along with written submissions:

- a. Audited accounts of fund mobilization and repayment for the financial years 2014-15, 2015-16, and 2016-17 with respect to Helios Corporation Limited. Audited accounts for fund mobilization and repayment with respect to Helios Chemicals Limited.
- b. Break-up of Rs. 6.96 crores raised by Helios Corporation Limited before 2004.

- c. Details of land ownership, including parcel details and valuation, with respect to Helios Corporation Limited and Helios Chemicals Limited.
 - d. Clarification with respect to the interest rate offered on the Optionally Convertible Bonds.
 - e. Copy of the First Information Report (FIR) filed by Helios Corporation Limited, bearing no. 72/2013.
 - f. Documents of Court proceedings pursuant to the aforesaid FIR.
 - g. Court orders quashing the FIR filed by Mr. Sanjeet Kumar Sharma.
 - h. Directors' and Companies' assets/properties details with respect to Helios Corporation Limited and Helios Chemicals Limited.
19. Mr. Sanjeet Kumar Sharma vide an email dated October 23, 2017 sought for an adjournment of the personal hearing on October 25, 2017. Accordingly, an opportunity of personal hearing was provided on December 14, 2017. However, vide email dated December 14, 2017, Mr. Sanjeet Kumar Sharma stated that he was unable to appear for the said hearing and that his submissions dated November 30, 2016, as mentioned earlier, might be considered. Mr. Rajeev Kumar Sharma, Mr. Kaushal Kishor Singh, Mr. Basant Kumar Singh, Mr. Satyendra Singh, Ms. Prema Kumari, Mr. Devendra Prasad Singh, Mr. Rakesh Kumar, Ms. Manju Pathak, Mr. Virendra Prasad Sinha, Mr. Surendra Nath Singh and Ms. Krishna Devi did not appear for personal hearing.
20. Vide reply dated October 25, 2017, Helios Corporation Limited has requested SEBI to grant relief to Helios Corporation and Helios Chemicals from the restriction to dispose of/alienate the properties and assets of the Companies, imposed vide order dated November 20, 2015. Thereafter, vide joint reply dated November 8, 2017, Helios Corporation and Helios Chemicals have made the *inter alia*, the following written submissions:
- a. Liability to the extent of Rs. 2 crores has been repaid by Helios Corporation and Helios Chemicals from April 1, 2014 till October 31, 2017. Balance of Rs. 11 crores and Rs. 6.93 crores approximately, is to be paid by Helios Corporation and Helios Chemicals, respectively. The said amounts are proposed to be paid within one year of passing of this order.

- b. Helios Corporation has land property located at Patna (308 katha) and Helios Chemicals has land property at Bawana (2.75 acres) which can be utilized to arranged for funds for the repayment to the Bond holders.
21. Vide reply dated February 22, 2018, Helios Corporation and Helios Chemicals have jointly, *inter alia*, submitted the final amounts of repayments claimed to have been made from April 1, 2014 to January 31, 2014, auditors' certificates in that respect, Balance Sheet for 2016-2017 and the complete deeds and documents of the landed property of Helios Chemicals at Bawana.
22. Along with the aforesaid submissions, the Companies have submitted certain documentary evidence in support of its written and oral submissions.
23. I have considered the allegations and materials available on record. On perusal of the same, the following issues arise for consideration. Each question is dealt with separately under different headings.
- (1) *Whether Helios Corporation and Helios Chemicals came out with the Offer of OCDs as stated in the interim order.*
- (2) *If so, whether the said issues are in violation of Section 56, Section 60 read with section 2(36), Section 73 of the Companies Act, 1956 read with the DIP Guidelines.*
- (3) *If the findings on Issue No.2 are found in the affirmative, who are liable for the violation committed?*

ISSUE No. 1- Whether Helios Corporation and Helios Chemicals came out with the Offer of OCDs as stated in the interim order.

24. I have perused the interim order dated November 20, 2015 for the allegation of *Offer of OCDs*. I note that neither the company nor the directors filed any reply disputing the same.

Helios Corporation

25. I have perused the documents/ information obtained from RoC, and other documents available on records. It is noted from the balance sheets of financial year 2008-2009 that Helios Corporation had allotted OCDs or Sun Bonds to 4,062 and raised an amount of Rs.

11,95,34,587.

26. I note that Helios Corporation vide its letter dated November 25, 2014, had submitted a list of its 2,062 existing bond holders as on March 31, 2014, having the 'year of purchase' between 2004 and 2009 and a uniform tenure of 120 months. Vide the said letter, the principal liability towards these bonders was submitted to be Rs. 4,24,03,400. It was also submitted by Helios Corporation that there were approximately 2,000 other 'Sun Bond' holders, who were issued bonds during the years 1997/1998 and whose details are available with the Official Liquidator, Patna High Court. The principal liability, as per the Company's submission, towards these investors was Rs. 3,62,44,586. Helios Corporation along with its submissions has also filed a certificate dated July 25, 2009, from the Chartered Accountant, in support of its claim that it had made repayments to 'bond' holders during the various financial years and has provided only the list of existing bond holders. From the above, I find that the allotments were made to more than 4,062 investors.
27. From the reply submitted by Helios Corporation, I note that Helios Corporation has admittedly collected by issuing OCDs as stated in the balance sheets of the respective years 1997 and 1998. Therefore I find that Helios Corporation had mobilized funds at least from 1996-1997 to be reflected in the balance sheets of 1997.
28. Therefore, the details of fund mobilization are as follows:

Period of Mobilization	No. of Investors	Amount (in Rs.)
1996-1997 to 2008-2009	More than 4,062	11,95,34,587

Helios Chemicals

29. I note that Helios Chemicals vide letter dated January 22, 2015, has submitted the list of 4,810 existing 'Bond holders' as on January 15, 2015, who were issued 7,99,850 bonds (i.e. OCDs) during the financial years between 2003-04 and 2007-08 for a principal amount of Rs. 7,99,85,000/-. Further, I note that Helios Chemicals has submitted that the details of the additional existing bond holders for 11,267 bonds are misplaced. Therefore, I find that the allotments were made to more than 4,810 investors.

30. Details of fund mobilization done by Helios Chemicals is as below:

Period of Mobilization	No. of Investors	Amount (in Rs.)
2003-2004 to 2007-2008	More than 4,810	7,99,85,000

31. I also note that Helios Chemicals has stated that it had accrued a liability of Rs. 14,21,01,300 as on March 31, 2009 which decreased to Rs. 7,99,85,586 as on March 31, 2014. However, findings with respect to the extent of liability for the repayments is given separately in this Order.

32. I therefore conclude that Helios Corporation and Helios Chemicals came out with an offer of OCDs as outlined above.

ISSUE No. 2- If so, whether the said issues are in violation of Section 56, Section 60 read with section 2(36), Section 73 of the Companies Act, 1956 read with the DIP Guidelines.

33. The provisions alleged to have been violated and mentioned in Issue No.2 are applicable to the *Offer of OCDs* made to the public. Therefore the primary question that arises for consideration is whether the issue of OCDs is ‘public issue’. At this juncture, reference may be made to sections 67(1) and 67(3) of the Companies Act, 1956:

"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).”

34. The following observations of the Hon'ble Supreme Court of India in *Sahara India Real Estate Corporation Limited & Ors. v. SEBI (Civil Appeal no. 9813 and 9833 of 2011)* (hereinafter referred to as the “**Sahara Case**”), while examining the scope of Section 67 of the Companies Act, 1956, are worth consideration:-

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

Sections 67(1) and (2). If the circumstances mentioned in clauses (1) and (b) of Section 67(3) are satisfied, then the offer/invitation would not be treated as being made to the public.

The first proviso to Section 67(3) was inserted by the Companies (Amendment) Act, 2000 w.e.f. 13.12.2000, which clearly indicates, nothing contained in Sub-section (3) of Section 67 shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more. ... Resultantly, after 13.12.2000, any offer of securities by a public company to fifty persons or more will be treated as a public issue under the Companies Act, even if it is of domestic concern or it is proved that the shares or debentures are not available for subscription or purchase by persons other than those receiving the offer or invitation.”

35. Section 67(3) of Companies Act, 1956 provides for situations when an offer is not considered as offer to public. As per the said sub section, if the offer is one which is not 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, if the offer is the domestic concern of the persons making and receiving the offer, the same are not considered as public offer. Under such circumstances, they are considered as private placement of shares and debentures. It is noted that as per the *first proviso* to Section 67(3) Companies Act, 1956, the public offer and listing requirements contained in that Act would become automatically applicable to a company making the offer to fifty or more persons. However, the *second proviso* to Section 67(3) of Companies Act, 1956 exempts NBFCs and Public Financial Institutions from the applicability of the *first proviso*.
36. In the instant matter, I find that OCDs were issued by Helios Corporation to at least 4,062 investors in the financial years from 1996-1997 till 2008-2009. I also find that OCDs were issued by Helios Chemicals, to at least 4,810 investors from 2003-2004 to 2007-2008. I

find that Helios Corporation has mobilized an amount of Rs. 11,95,34,587 over the financial years 1996-1997 to 2008-2009. Similarly, Helios Chemicals has mobilized an amount of Rs. 7,99,85,000 over the financial years 2003-2004 to 2007-2008. The above findings lead to a reasonable conclusion that the *Offer of OCDs* by Helios Corporation and Helios Chemicals was a “public issue” within the meaning of the first proviso to section 67(3) of the Companies Act, 1956.

37. I find that Helios Corporation and Helios Chemicals have not claimed themselves to be Non-banking financial companies or public financial institutions within the meaning of Section 4A of the Companies Act, 1956. I note from the submissions made by Helios Corporation and Helios Chemicals in its reply dated December 18, 2015, that it is claimed that the said Companies are not Non-banking Companies and are therefore not falling within the purview of RBI. However, the said issue is still pending before the High Court of Patna, as the matter is pending for fresh consideration and disposal. I am of the opinion that even if the Noticees are considered NBFCs, the exemption is only to the extent of the first proviso of section 67(3). However, like a general company, an NBFC has to prove that its offer falls either under clause (a) or (b) of section 67(3) to claim such issuance to be a private placement. However, the Companies have not argued the aforesaid, and therefore I find that the issuance of OCDs was done in contravention to the public issue norms as applicable under the Companies Act, 1956.

38. I note that in the joint reply dated December 18, 2015 Helios Corporation and Helios Chemicals have submitted that since the allotments were being made as private placements to friends//staff/relatives/associates and their related persons regulatory requirements for public issue was not complied with. In this regard, reference may be made to the order dated April 28, 2017 of Hon’ble Securities Appellate Tribunal in *Neesa Technologies Limited vs. SEBI (Appeal No. 311 of 2016)* which lays down that “*In terms of Section 67(3) of the Companies Act any issue to ‘50 persons or more’ is a public issue and all public issues have to comply with the provisions of Section 56 of Companies Act and ILDS Regulations. Accordingly, in the instant matter the appellant have violated these provisions and their argument that they have issued the NCDs in multiple tranches and no tranche has exceeded 49 people has no meaning*”. Even in cases where the allotments

are considered separately, reference may be made to Sahara Case, wherein it was held that under Section 67(3) of the Companies Act, 1956, the "Burden of proof is entirely on Saharas to show that the investors are/were their employees/workers or associated with them in any other capacity which they have not discharged." In respect of the present issuance, the directors have not placed any material on record to show that the allotment was in satisfaction of section 67(3)(a) or 67(3)(b) of Companies Act, 1956. Therefore, I find that the said issuance cannot be considered as private placement.

39. Therefore, in view of the material available on record, I find that the *Offer of OCDs* by Helios Corporation and Helios Chemicals fall within the first proviso of section 67(3) of Companies Act, 1956. Hence, the *Offer of OCDs* are deemed to be public issues and Helios Corporation and Helios Chemicals were mandated to comply with the 'public issue' norms as prescribed under the Companies Act, 1956.
40. Further, since the offer of OCDs is a public issue of securities, such securities shall also have to be listed on a recognized stock exchange, as mandated under section 73 of the Companies Act, 1956. As per section 73(1) and (2) of the Companies Act, 1956, a company is required to make an application to one or more recognized stock exchanges for permission for the shares or debentures to be offered to be dealt with in the stock exchange and if permission has not been applied for or not granted, the company is required to forthwith repay with interest all moneys received from the applicants.
41. I also find that no records have been submitted to indicate that the Companies have made applications seeking listing permission from stock exchange or refunded the amounts on account of such failure. Therefore, I find that Helios Corporation and Helios Chemicals have contravened the said provisions. Helios Corporation and Helios Chemicals have not provided any records to show that the amount collected by it is kept in a separate bank account. Therefore, I find that Helios Corporation and Helios Chemicals have also not complied with the provisions of section 73(3) which mandates that the amounts received from investors shall be kept in a separate bank account. Therefore, I find, that section 73(2) of the Companies Act, 1956 has not been complied with.
42. Section 2(36) of the Companies Act read with section 60 thereof, mandates a company to

register its 'prospectus' with the RoC, before making a public offer/ issuing the 'prospectus'. As per the aforesaid Section 2(36), "prospectus" means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate. As the offer of OCDs was a deemed public issue of securities, Helios Corporation and Helios Chemicals were required to register a prospectus with the RoC under Section 60 of the Companies Act, 1956. I find that Helios Corporation and Helios Chemicals have not submitted any record to indicate that it has registered a prospectus with the RoC, in respect of the offer of OCDs. I, therefore, find that Helios Corporation and Helios Chemicals have not complied with the provisions of section 60 of the Companies Act, 1956.

43. In terms of section 56(1) of the Companies Act, 1956, every prospectus issued by or on behalf of a company, shall state the matters specified in Part I and set out the reports specified in Part II of Schedule II of that Act. Further, as per section 56(3) of the Companies Act, 1956, no one shall issue any form of application for shares in a company, unless the form is accompanied by abridged prospectus, containing disclosures as specified. Neither Helios Corporation and Helios Chemicals nor their directors produced any record to show that they have issued Prospectus containing the disclosures mentioned in section 56(1) of the Companies Act, 1956, or issued application forms accompanying the abridged prospectus. Therefore, I find that, Helios Corporation and Helios Chemicals have not complied with sections 56(1) and 56(3) of the Companies Act, 1956.

44. The Companies were also required to comply with the following provisions of the DIP Guidelines:

- Clause 2.1.1 (filing of offer document)
- Clause 2.1.4 (application for listing)
- Clause 2.1.5(issue of securities in dematerialized form),
- Clause 2.8. (means of finance),
- Clause 4.1 (promoters contribution in a public issue by unlisted companies),
- Clause 4.11 (lock-in of minimum specified promoters contribution in public issues),
- Clause 4.14 (lock-in of pre-issue share capital of an unlisted company)

- Clause 5.3.1 (memorandum of understanding),
- Clause 5.3.3 (due diligence certificate)
- Clause 5.3.5 (undertaking)
- Clause 5.3.6 (list of promoters group and other details)
- Clause 5.4 (appointment of intermediaries)
- Clause 5.6 (offer document to be made public)
- Clause 5.6A (Pre-issue Advertisement)
- Clause 5.7 (despatch of issue material)
- Clause 5.8 (no complaints certificate)
- Clause 5.9 (mandatory collection centres and Clause 5.9.1.(minimum number of collection centres)
- Clause 5.10 (authorised collection agents)
- Clause 5.12.1 (appointment of compliance officer),
- Clause 6.0 (contents of offer documents)
- Clause 6.1 to Clause 6.15 (contents of prospectus)
- Clause 6.16 to Clause 6.34 (contents of abridged prospectus) including Clause 6.17.13
- Clause 8.3 (Rule 19(2)(b) of SC(R) Rules, 1957)
- Clause 8.8.1 (Opening & closing date of subscription of securities)
- Clause 9 (guidelines on advertisements by issuer company)
- Clause 10.1 (credit rating for issue of convertible debt instrument)
- Clause 10.2 (appointment of debenture trustee)
- Clause 10.3 (debenture redemption reserve)
- Clause 10.5 (redemption)
- Clause 10.6 (disclosure and creation of charge)
- Clause 10.9 (disclosures in respect of debentures)

45. As per Regulation 111(1) of the ICDR Regulations, the DIP Guidelines "*shall stand rescinded*". However, Regulation 111(2) of the ICDR Regulations, provides that:

"(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments,—
(a) anything done or any action taken or purported to have been done or taken
including observation made in respect of any draft offer document, any enquiry or

investigation commenced or show cause notice issued in respect of the said Guidelines shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(b) any offer document, whether draft or otherwise, filed or application made to the Board under the said Guidelines and pending before it shall be deemed to have been filed or made under the corresponding provisions of these regulations."

46. Further, I note that the jurisdiction of SEBI over various provisions of the Companies Act, 1956 including the above mentioned, in the case of public companies, whether listed or unlisted, when they issue and transfer securities, flows from the provisions of Section 55A of the Companies Act, 1956. While examining the scope of Section 55A of the Companies Act, 1956, the Hon'ble Supreme Court of India in *Sahara Case*, had observed that:

"We, therefore, hold that, so far as the provisions enumerated in the opening portion of Section 55A of the Companies Act, so far as they relate to issue and transfer of securities and non-payment of dividend is concerned, SEBI has the power to administer in the case of listed public companies and in the case of those public companies which intend to get their securities listed on a recognized stock exchange in India."

"SEBI can exercise its jurisdiction under Sections 11(1), 11(4), 11A(1)(b) and 11B of SEBI Act and Regulation 107 of ICDR 2009 over public companies who have issued shares or debentures to fifty or more, but not complied with the provisions of Section 73(1) by not listing its securities on a recognized stock exchange"

47. In this regard, it is pertinent to note that by virtue of Section 55A of the Companies Act, 1956, SEBI has to administer Section 67 of that Act, so far as it relates to issue and transfer of securities, in the case of companies who intend to get their securities listed. While interpreting the phrase "intend to get listed" in the context of deemed public issue the Hon'ble Supreme Court in *Sahara Case* observed-

"...But then, there is also one simple fundamental of law, i.e. that no-one can be

presumed or deemed to be intending something, which is contrary to law. Obviously therefore, “intent” has its limitations also, confining it within the confines of lawfulness...”

“...Listing of securities depends not upon one’s volition, but on statutory mandate...”

“...The appellant-companies must be deemed to have “intended” to get their securities listed on a recognized stock exchange, because they could only then be considered to have proceeded legally. That being the mandate of law, it cannot be presumed that the appellant companies could have “intended”, what was contrary to the mandatory requirement of law...”

48. In view of the above findings, I am of the view that Helios Corporation and Helios Chemicals engaged in fund mobilizing activity from the public, through the offer of OCDs and has contravened the provisions of section 56(1), 56(3), 2(36) read with 60, 73(1), 73(2), 73(3), and above mentioned provisions pertaining to the DIP Guidelines.

ISSUE No. 3- If the findings on Issue No.2 are found in the affirmative, who are liable for the violation committed?

49. From the submissions of Mr. Satyendra Singh and Mr. Devendra Prasad Singh I note that they have claimed that they were earlier directors of Helios Corporation. Mr. Satyendra Singh vide his application dated December 21, 2015, has submitted that he resigned from the Company on July 12, 1997 and has submitted a copy of the RoC Cash Counter Receipt for the submission of the relevant Form 32. Mr. Devendra Prasad Singh has submitted that he resigned from Helios Corporation on June 20, 1997. He has submitted a copy of the RoC Cash Counter Receipt for the submission of the relevant Form 32, and also a copy of the acknowledgment of the resignation accepted by Mr. Sanjay Kumar Singh, Chairman of Helios Group. Further, on perusal of the Memorandum of Association (MoA) of Helios Corporation, I note that the said Noticees were the first directors of the Company. In view of the above, I find that Mr. Satyendra Singh and Mr. Devendra Prasad Singh were directors of Helios Corporation from its incorporation till July 12 and June 20, 1997, respectively.

50. From the ‘MCA21 Portal’, I find that the present Directors in Helios Corporation are Mr.

Sanjay Kumar Singh, Mr. Basant Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Kaushal Kishor Singh. I also note that, Mr. Sanjeet Kumar Sharma, who was earlier Director in Helios Corporation, has since resigned. The details of the appointment and resignation of the directors are as following:

Name of the directors	Date of appointment	Date of cessation
Mr. Sanjay Kumar Singh	November 15, 1995	Continuing
Mr. Basant Kumar Singh	September 29, 2012	Continuing
Mr. Rajeev Kumar Sharma	September 30, 2004	Continuing
Mr. Kaushal Kishor Singh	December 06, 2013	Continuing
Mr. Sanjeet Kumar Sharma	May 30, 2007	December 03, 2012
Mr. Satyendra Singh	November 15, 1995	July 12, 1997
Mr. Devendra Prasad Singh	November 15, 1995	June 20, 1997

51. From the MoA of Helios Corporation, I note that I find that Mr. Sanjay Kumar Singh, Mr. Satyendra Singh, Mr. Devendra Prasad Singh, Mr. Anjani Kumar, Mr. Virendra Prasad Sinha, Mr. Govind Madhav Jha and Ms. Prema Kumari, were first subscribers of Helios Corporation. In view of the same, I find that Mr. Sanjay Kumar Singh, Mr. Satyendra Singh and Mr. Devendra Prasad Singh, who are also directors of Helios Corporation, and Mr. Anjani Kumar, Mr. Virendra Prasad Sinha, Mr. Govind Madhav Jha and Ms. Prema Kumari, are promoters of Helios Corporation.
52. From the 'MCA21 Portal', I find that the present Directors in Helios Chemicals are Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Kaushal Kishor Singh. The details of the appointment and resignation of the directors are as following:

Name of the directors	Date of appointment	Date of cessation
Mr. Sanjay Kumar Singh	January 20, 1995	Continuing
Mr. Rajeev Kumar	January 21, 1998	Continuing

Sharma		
Mr. Kaushal Kishor Singh	March 20, 2004	Continuing

53. I further note from the submissions made by Mr. Surendra Nath Singh and Ms. Krishna Devi vide letter dated December 20, 2015, that they were never appointed as Directors of either Helios Corporation or Helios Chemicals, and the said submission has been corroborated by the replies submitted by Helios Corporation and Helios Chemicals. I note from the interim order that the said Noticees were considered as the first subscribers of the MoA of Helios Chemicals. Moreover, I note that there is no record on MCA21 Portal which indicate that Mr. Surendra Nath Singh and Ms. Krishna Devi were past directors of either Companies. Therefore, the said submission is accepted and Mr. Surendra Nath Singh and Ms. Krishna Devi are considered promoters of Helios Chemicals, as first subscribers to the MoA.
54. From the MoA of Helios Chemicals, I find that Mr. Sanjay Kumar Singh, Mr. Anjani Kumar, Mr. Rakesh Kumar, Ms. Manju Pathak, Mr. Virendra Prasad Sinha, Mr. Surendra Nath Singh and Ms. Krishna Devi were the first subscribers of Helios Chemicals. In view of the same I find that Mr. Sanjay Kumar Singh who is also a director of Helios Chemicals, and Mr. Anjani Kumar, Mr. Rakesh Kumar, Ms. Manju Pathak, Mr. Virendra Prasad Sinha, Mr. Surendra Nath Singh and Ms. Krishna Devi are promoters of Helios Chemicals.
55. From the replies of Helios Corporation and Helios Chemicals dated December 18, 2015, and the copy of death certificates provided in this respect, I note that the promoters of the Companies, namely Mr. Govind Madhav Jha and Mr. Anjani Kumar have expired on September 12, 2013 and August 21, 2002, respectively. In view of the same, this proceeding stands abated as against the said Noticees. I note that Helios Corporation has submitted that Mr. Virendra Prasad Sinha has also expired. However, no documentary evidence with regard to the same has been submitted by the Company. Therefore, there is no material on record substantiating that Mr. Virendra Prasad Sinha has deceased. Thus he would continue to be treated as a promoter of Helios Corporation and Helios Chemicals. However, if the document evidencing the death of Mr. Virendra Prasad Sinha is made

available, the directions relating to him imposed in this order shall cease to have effect from the date of submission of such document.

56. Mr. Sanjeet Kumar Sharma has stated vide his replies, that as a new director, he was assigned the work of setting up a new office, group property control and development, administration, expenditure, etc. He has further submitted that the Company was indulging in embezzling of funds, executing sale deeds, and other activities by misusing his digital signature. It was submitted that he filed a complaint before the Officer in Charge of the Budha Colony Police Station on May 5, 2013 with respect to misuse of his digital signature and an FIR was lodged on November 15, 2013 vide Budha Colony P.S. Case No. 273/2013. I note from the submissions made by Mr. Sanjay Kumar Singh on behalf of Helios Corporation and Helios Chemicals, during the oral submissions at the personal hearing, and vide reply dated November 8, 2017, that it has been claimed that the said Case no. 273/2013 has been quashed by the Hon'ble High Court of Patna. However, I note from the order dated February 9, 2015, passed by the Hon'ble High Court, that the aforesaid Case no. 273/2013 has not been quashed, and only a writ petition filed in relation to the said case, has been dismissed.

Further, I note from the submissions of Mr. Sanjeet Kumar Sharma that he claims that he was falsely accused by Helios Corporation, in the Sri Krishnapuri P.S. Case no. 72/2013. In the submissions of Helios Corporation dated November 8, 2017, it has been submitted that the said Case was found true by the Hon'ble High Court of Patna. However, from a perusal of the order dated August 7, 2014, passed in this matter by the Hon'ble High Court of Patna, I note that the said Case was not disposed of yet, and the Hon'ble High Court of Patna has only dismissed the plea for anticipatory bail for Mr. Sanjeet Kumar Sharma.

It appears from the documentary records submitted in this regard by Helios Corporation and Helios Chemicals, that several complaints and litigation proceedings have been instituted by and against Mr. Sanjeet Kumar Sharma, who was a past director of Helios Corporation, with respect to the Company. However, the same are not relevant for determining the liability of the Company and its directors in the present matter. In this regard, it is pertinent to note that Mr. Sanjeet Kumar Sharma was admittedly a director of Helios Corporation and merely informing about the alleged misdeeds of the Company, to

the RoC vide several applications and filing police complaints against the existing directors of the Company in that regard, does not absolve him of the liability arising out of violation of securities laws.

57. Section 56(1) and 56(3) read with section 56(4) of the Companies Act, 1956 imposes the liability on the company, every director, and other persons responsible for the prospectus for the compliance of the said provisions. The liability for non-compliance of Section 60 of the Companies Act, 1956 is on the company, and every person who is a party to the non-compliance of issuing the prospectus as per the said provision. Therefore, Helios Corporation, Helios Chemicals and its directors are held liable for the violation of sections 56(1), 56(3) and 60 of the Companies Act, 1956.
58. As far as the liability for non-compliance of section 73 of Companies Act, 1956 is concerned, as stipulated in section 73(2) of the said Act, the company and every director of the company who is an officer in default shall, from the eighth day when the company becomes liable to repay, 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 if the money is not repaid forthwith. With regard to liability to pay interest, I note that as per section 73 (2) of the Companies Act, 1956, the company and every director of the company who is an officer in default is jointly and severally liable, to repay all the money with interest at prescribed rate. In this regard, I note that in terms of rule 4D of the Companies (Central Governments) General Rules and Forms, 1956, the rate of interest prescribed in this regard is 15%. In the instant matter, Helios Chemicals has claimed various amounts to be its liability to repay the investors. For instance, as on March 31, 2009, its liability was Rs. 14,21,01,300 which decreased due to claimed repayment to Rs. 7,99,85,586 as on March 31, 2014. It appears that the calculations have been made by the Company on the basis of 12% interest, as clarified in its letter dated November 8, 2017. However, in view of the statutory liability to repay at the rate of 15%, the liability of the Company on the amount mobilized would be calculated accordingly. Moreover, in respect of the amounts claimed to be refunded to arrive at the liability of the Company, the Company would need to follow the directions as outlined in paragraph 76(a), (c) and (j) of this Order.
59. From the details of the appointment and resignation of the directors of Helios Corporation,

as available on *MCA21 Portal* and reproduced in paragraph 50 of this Order, and the admissions of Mr. Satyendra Singh and Mr. Devendra Prasad Singh in paragraph 49 of this order, it is noted that Mr. Sanjeet Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh were directors at the time of the issuance of OCDs. Similarly, from the details of the appointment and resignation of the directors of Helios Chemicals, as available on *MCA21 Portal* and reproduced in paragraph 52, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Kaushal Kishor Singh were directors at the time of the issuance of OCDs. Since these persons were acting as directors during the period of issuance of OCDs, they are officers in default as per Section 5(g) of Companies Act, 1956. Further, in the present case, no material is brought on record to show that any of the officers set out in clauses (a) to (c) of Section 5 of Companies Act, 1956 or any specified director of Helios Corporation and Helios Chemicals was entrusted to discharge the obligation contained in Section 73 of the Companies Act, 1956. Therefore, as per Section 5(g) of the Companies Act, 1956 the past and present directors of Helios Corporation and Helios Chemicals, as officers in default, are liable to make refund, jointly and severally, along with interest at the rate of 15 % per annum, under section 73(2) of the Companies Act, 1956 for the non-compliance of the above mentioned provisions. Since, the liability of the company to repay under section 73(2) is continuing and such liability continues till all the repayments are made, the above said directors are co-extensively responsible along with the Company for making refunds along with interest under section 73(2) of the Companies Act, 1956 read with rule 4D of the Companies (Central Government's) General Rules and Forms, 1956, and section 27(2) of the SEBI Act. Therefore, I find that Helios Corporation and its past and present directors, Mr. Sanjeet Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh are jointly and severally liable to refund the amounts collected from the investors with interest at the rate of 15 % per annum, for the non-compliance of the above mentioned provisions for the fund mobilization done by the respective Companies.

60. I note that Helios Corporation had allotted OCDs to at least 4,062 investors and raised an amount of Rs. 11,95,34,587 from financial years 1996-1997 to 2008-2009. I further note that Helios Chemicals had allotted OCDs to at least 4,810 investors and raised an amount of Rs. 7,99,85,000 from financial years 2003-2004 to 2007-2008. I note that Mr. Sanjay Kumar Singh has been director of Helios Corporation since financial year 1995-1996 till present date, Mr. Rajeev Kumar Sharma has been director of Helios Corporation since financial years 2004-2005 till present date. I note that Mr. Sanjeet Kumar Sharma was director of Helios Corporation during financial years 2007-2008 till 2011-2012. Mr. Satyendra Singh and Mr. Devendra Prasad Singh, were directors of Helios Corporation during the financial years 1995-1996 till 1997-1998. Similarly, I note that Mr. Sanjay Kumar Singh has been director of Helios Chemicals since financial year 1994-1995 till present date, Mr. Rajeev Kumar Sharma has been director of Helios Chemicals since financial year 1997-1998 till present date, and Mr. Kaushal Kishor Singh has been director of Helios Chemicals since financial year 2003-2004 till present date. Therefore, in view of Hon'ble Securities Appellate Tribunal (SAT) Order dated July 14, 2017 in the matter of *Manoj Agarwal vs. SEBI*, I am of the view that the obligation of each director to refund the amount with interest jointly and severally with Helios Corporation and Helios Chemicals and other directors is limited to the extent of amount collected during his/her tenure as director of Helios Corporation or Helios Chemicals, as the case may be.
61. In this regard, I note that, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh were appointed as directors of Helios Corporation only on September 29, 2012 and December 06, 2013, respectively, i.e. after the period of issuance of OCDs by Helios Corporation. Therefore, following the reasoning as provided in the matter of *Manoj Agarwal vs. SEBI*, I am of the view that Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh are not liable for refund of money as they were not directors during the relevant time of fund mobilization. However, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh had the responsibility of ensuring that refund of money was made to the investors as prescribed in law. With respect to the breach of law and duty by a director of a company, I refer to and rely on the following observations made by the Hon'ble High Court of Madras in *Madhavan Nambiar vs. Registrar of Companies* (2002 108 Cas 1 Mad):

" 13. A director either full time or part time, either elected or appointed or nominated is bound to discharge the functions of a director and should have taken all the diligent steps and taken care in the affairs of the company.

14. In the matter of proceedings for negligence, default, breach of duty, misfeasance or breach of trust or violation of the statutory provisions of the Act and the rules, there is no difference or distinction between the whole-time or part time director or nominated or co-opted director and the liability for such acts or commission or omission is equal. So also the treatment for such violations as stipulated in the Companies Act, 1956. "

62. A person cannot assume the role of a director in a company in a casual manner. The position of a 'director' in a public company/listed company comes along with responsibilities and compliances under law associated with such position, which have to be fulfilled by such director or face the consequences for any violation or default thereof. The noticee cannot therefore be absolved of the liability. A director who is part of a company's board shall be responsible and liable for all acts carried out by a company. Accordingly, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh were responsible for all the deeds/acts of the Helios Corporation during the period of their directorship and were obligated to ensure refund of the money collected by the company to the investors as per the provisions of Section 73 of Companies Act, 1956. In view of the failure to discharge the said liability of ensuring refund, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh are liable to be debarred for an appropriate period of time in respect of the fund mobilization done by Helios Corporation.

63. I find that Mr. Virendra Prasad Sinha and Ms. Prema Kumari are promoters of Helios Corporation and Mr. Rakesh Kumar, Ms. Manju Pathak, Mr. Virendra Prasad Sinha, Mr. Surendra Nath Singh and Ms. Krishna Devi are promoters of Helios Chemicals. The said Noticees have not denied knowledge/connivance/consent in the act/omission which constitutes violation of the provisions of the public issue and public interest requires that the persons who had such knowledge/connivance/consent be made accountable to the investors. The said Noticees also had the duty to ensure due diligence in the matters of the Company which they have failed to do in this case. In view of the above, the said Noticees are liable as promoters of the Companies, to be debarred for an appropriate period of time.

64. With respect to the respective provisions of DIP Guidelines as enumerated on paragraph

- 44 of this order, the liability is on the Company to comply with the requirements therein.
65. During the personal hearing, it was submitted that before 2004, Helios Corporation had raised about Rs. 6.96 crores through optionally convertible bonds, inclusive of principal amount and interest. After 2004, about Rs. 4 crores was raised as principal amount. It was also submitted that till 2009, Helios Corporation had repaid Rs. 2.37 crores, of which Rs. 1.56 crores was interest. It was further submitted that from 2009 to 2014, about Rs. 1.71 crores was repaid of which Rs. 62 lakh was interest. Similarly, for Helios Chemicals it was submitted that Rs. 1 crore has been repaid and Rs. 7 crores is pending for repayment. The Noticees were advised to submit audited accounts of fund mobilization and the claimed repayment for the financial years 2014-15, 2015-16, and 2016-17 with respect to Helios Corporation and Helios Chemicals. Further, Helios Corporation was advised to submit the break-up of Rs. 6.96 crores raised by Helios Corporation before 2004. From the audited accounts submitted by Helios Corporation and Helios Chemicals, I note that the aforesaid details cannot be discerned. I also note from the replies dated November 8, 2017 and February 22, 2018 that Helios Corporation and Helios Chemicals have provided details of claimed repayment made in the financial years 2014-2015 to 2017-2018 till January 31, 2018, amounting to Rs. 1,08,11,029 and Rs. 1,01,30,410, respectively. The Companies have submitted balance sheets for the financial years 2014-2015 to 2016-2017 and an auditor's certificate in support of the claimed repayments. However, from the auditors' certificates it appears that the calculation of the claimed repayments were made at the rate of interest of 12% as perceived from the statement "the company has made repayment of long term borrowings (12% Sun Bonds)..." This is contrary to the statutory rate of interest of 15% and therefore complete repayment cannot be said to have been made by the Companies. Further, as per the submissions dated February 22, 2018, the Chartered Accountants who have certified the aforesaid claimed repayments, are not peer reviewed, and therefore, such certificates cannot be accepted to be valid.
66. It is submitted by Helios Corporation vide its reply dated December 18, 2015 and November 8, 2017 that RBI had filed a winding up Company Petition bearing no. 4/2000 claiming that the deposits found in the books of Helios Corporation came within the purview of Non-banking Companies and therefore RBI had the regulatory control over the

same. Vide ex parte order dated May 19, 2000, a Provisional Liquidator was appointed for Helios Corporation, and an interim order was issued prohibiting the Company and its directors from disposing of any of its assets. Thereafter, the order was challenged and the appointment of Provisional Liquidator was set aside vide the Division Bench of the Hon'ble High Court of Patna vide order dated February 13, 2001, for fresh consideration of the case in the presence of Helios Corporation. However, the interim order of May 19, 2000 was to continue till the matter was heard and disposed of, ensuring that the Company and its directors were restrained from disposing of the properties and assets of the Company till disposal of the Winding up petition.

67. It may be seen in the winding up proceedings under the Companies Act, 1956 the secured creditors get full satisfaction of their debts after the workmen's dues, and after satisfaction of other dues in priority only when sufficient assets of the company are available. In cases where no sufficient assets are available, they are entitled only to pro-rata payment. The winding up proceedings can result in such full repayment only if sufficient assets are available. However, the debenture holders in the deemed public issue are protected by way of full refund of the money collected by the company with interest for delay in making the repayment. In discharging this liability, the officers in default are equally liable jointly and severally with the company. In order to enforce the liability of 'officers in default' to repay the amount collected in deemed public issue under section 73(2) of the Companies Act, 1956 powers under the SEBI Act are available which include the power to pass direction to refund under section 11B of the SEBI Act and power to recover the same under section 28A of the SEBI Act in case noncompliance of directions issued under section 11B.
68. Therefore, a separate order is required to be passed wherein both the Company and the directors are made liable for repayment under section 73(2) of the Companies Act, 1956. In so far as the refund liability of Helios Corporation is concerned, this order needs to be harmoniously read with orders which are going to be passed by Hon'ble High Court of Patna.
69. In view of the foregoing, the natural consequence of not adhering to the norms governing the issue of securities to the public and making repayments as directed under section 73(2)

of the Companies Act, 1956, is to direct Helios Corporation and its past and present directors, Mr. Sanjeet Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh to refund the monies collected, with interest to such investors. Further, in view of the violations committed by the Company and its Directors, to safeguard the interest of the investors who had subscribed to such OCDs issued by the Company, to safeguard their investments, and to further ensure orderly development of securities market, it also becomes necessary for SEBI to issue appropriate directions against the Company and the other Noticees.

70. I note that Helios Corporation vide reply dated October 25, 2017, have requested SEBI to grant relief from the restriction on the Noticees to dispose of/alienate the assets of the Company or of their own, as imposed at paragraph 19(d) of the interim order. Also, vide reply dated November 8, 2017, the Companies have requested for time of one year to complete refund to all investors. I also note that vide the said reply dated November 8, 2017, Helios Corporation and Helios Chemicals have submitted their respective schemes of repayment. It is stated that Helios Corporation has an outstanding liability of Rs. 6.93 crores and Helios Chemicals has an outstanding liability of Rs. 11 crores. The said repayments will be completed after the property at Danapur and Bawana for the respective Companies, are released by the Courts and clearances are received from Government fora.
71. I note that, vide submission dated November 8, 2017, Helios Corporation and Helios Chemicals have submitted the respective details of land ownership, including parcel details and valuation. I further find that the unaudited details of bank accounts of the Noticees, and some of the property details of the present directors of Helios Corporation and Helios Chemicals have been provided.
72. In this regard, I note from the submissions made by Helios Corporation that proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 were initiated with respect to the plot of land owned by Helios Corporation at Danapur measuring 9.64 acres. It is submitted that the said matter is now pending before the Hon'ble Supreme Court for review filed by Helios Corporation. A Government approved valuation report dated July

25, 1997 has been submitted for the same. I also note that there are pending court proceedings and complaints before the District Magistrate, Patna, for the alleged encroachment on a separate plot of land owned by Helios Corporation.

73. I note that Helios Chemicals has submitted that the Court of Metropolitan Magistrate at New Delhi has passed an order dated September 22, 1999 in the criminal proceedings initiated vide FIR No. 334/98 for the offences under sections 420/409/120B of the Indian Penal Code, directing seizure of and restraint on further transfer of land measuring about 12 bighas at Bawana, held in the name of Helios Group of Companies and its sister concern companies, i.e. Helios Finance and Investment Limited, Helios Chemicals and Helios Corporation. It was stated in the Order dated September 22, 1999 that as per allegations made by the Investigating Officer in the investigation pursuant to the FIR, the said property was purchased by utilizing the money received after cheating the general public on the pretext of doubling their money.
74. It appears that vide letter dated November 8, 2017, the Companies are taking the two properties which are under litigation in either civil or criminal matters, as the basis for claiming an extension of period of repayments. However, it is noted that the properties of Helios Corporation is already under a restraint order of the High Court of Patna, in the Winding up Petition no. 4/2000. Further, this Order under the present proceedings will be made effective only subject to the orders to be passed in the said winding up proceedings. With respect to Helios Chemicals, I find that the Company has not brought on record any restraint order on the disposal of its properties other than the seizure of the property at Bawana, by the Court of Metropolitan Magistrate, New Delhi. Therefore, nothing prevents Helios Chemicals from disposing of the other assets of the Company. I also find that the Directors are liable to refund the investors, and there is no restraint on the said Directors from disposing of their assets and making the said refunds. In view of the above, I find it inappropriate to grant any relaxation to the Noticees in terms of the timeline of refund. I also note that vide replies dated November 8, 2017, Helios Corporation and Helios Chemicals have submitted proposals for repayments within a timeline of one year. However, since no relaxation is being granted to the Noticees, the said proposals for repayment are also hereby not accepted.

75. In view of the discussion above, appropriate action in accordance with law needs to be initiated against Helios Corporation and its past and present directors, Mr. Sanjeet Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh, and the promoters of both the Companies.

ORDER

76. In view of the aforesaid observations and findings, I, in exercise of the powers conferred under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11, 11(4), 11A and 11B of the SEBI Act, hereby issue the following directions:

- (a) Helios Corporation and its past and present directors, Mr. Sanjeet Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh shall forthwith refund the money collected by the Company, during their respective period of directorship through the issuance of OCDs including the application money collected from investors during their respective period of directorship, till date, pending allotment of securities, if any, with an interest of 15% per annum, from the eighth day of collection of funds, to the investors till the date of actual payment.
- (b) If Helios Corporation and Helios Chemicals had repaid the OCDs, as claimed in the reply dated November 8, 2017, to their investors as per section 73(2) of the Companies Act, along with promised returns, the above directions and the below mentioned consequential directions from paragraphs 76(c) to 76(n), shall be applicable for the amounts due to be returned to the investors. However, such prior repayments/redemption should have been made by the Company as per the requirement laid down in paragraph 76(c) below and the same shall be certified by Chartered Accountants, as directed in paragraph 76(j) below.
- (c) The repayments and interest payments to investors shall be effected only through Bank Demand Draft or Pay Order both of which should be crossed as “Non-Transferable” or

through appropriate banking channels with clear identification of beneficiaries and supporting documents.

- (d) Helios Corporation and its present directors, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh are directed to provide a full inventory of all the assets and properties and details of all the bank accounts, demat accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form, of the respective companies.
- (e) Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Sanjeet Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh, directors of Helios Corporation, are directed to provide a full inventory of all their assets and properties and details of all their bank accounts, demat accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form.
- (f) Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma and Mr. Kaushal Kishor Singh, directors of Helios Chemicals, are directed to provide full inventory of all their assets and properties and details of all the bank accounts, demat accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form.
- (g) Helios Corporation and present directors, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh and Helios Chemicals and its present Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh are permitted to sell the assets of the Companies for the sole purpose of making the refunds as directed above and deposit the proceeds in an Escrow Account opened with a nationalized Bank. Such proceeds shall be utilized for the sole purpose of making refund/repayment to the investors till the full refund/repayment as directed above is made.
- (h) Helios Corporation and its past and present directors, Mr. Sanjeet Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar

Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh are prevented from selling their assets, properties and holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above and deposit the proceeds in an Escrow Account opened with a nationalized Bank. Such proceeds shall be utilized for the sole purpose of making refund/repayment to the investors till the full refund/repayment as directed above is made.

- (i) Helios Corporation and on its behalf the present directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh and the past directors, viz. Mr. Sanjeet Kumar Singh, Mr. Satyendra Singh and Mr. Devendra Prasad Singh in their personal capacity to make refund, and Helios Chemicals and on its behalf the present directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma and Mr. Kaushal Kishor Singh shall issue public notice, in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation in the area of fund mobilisation, detailing the modalities for refund, including the details of contact persons such as names, addresses and contact details, within 15 days of this Order coming into effect.
- (j) After completing the aforesaid repayments, Helios Corporation and on its behalf the present directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Basant Kumar Singh and Mr. Kaushal Kishor Singh and the past directors, viz. Mr. Sanjeet Kumar Singh, Mr. Satyendra Singh and Mr. Devendra Prasad Singh in their personal capacity to make refund, and Helios Chemicals and on its behalf the present directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma and Mr. Kaushal Kishor Singh shall file a report of such completion with SEBI, within a period of three months from the date of this order, certified by two independent peer reviewed Chartered Accountants who are in the panel of any public authority or public institution. For the purpose of this Order, a peer reviewed Chartered Accountant shall mean a Chartered Accountant, who has been categorized so by the Institute of Chartered Accountants of India ("**ICAI**") holding such certificate.
- (k) In case of failure of Helios Corporation and its past and present directors, Mr. Sanjeet

Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh to comply with the aforesaid applicable directions, SEBI, on the expiry of three months period from the date of this Order, may recover such amounts, from the company and the directors liable to refund as specified in paragraph 76(a) of this Order, in accordance with section 28A of the SEBI Act including such other provisions contained in securities laws.

- (l) Helios Corporation and its past and present directors, Mr. Sanjeet Kumar Sharma, Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, Mr. Satyendra Singh and Mr. Devendra Prasad Singh and Helios Chemicals and its Directors, viz. Mr. Sanjay Kumar Singh, Mr. Rajeev Kumar Sharma, and Mr. Kaushal Kishor Singh are directed not to, directly or indirectly, access the securities market, by issuing prospectus, offer document or advertisement soliciting money from the public and are further restrained and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, from the date of this Order, till the expiry of 4 (four) years from the date of completion of refunds to investors as directed above. The above said directors are also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI from the date of this Order till the expiry of 4 (four) years from the date of completion of refunds to investors.
- (m) Mr. Basant Kumar Singh is directed not to, directly or indirectly, access the securities market, by issuing prospectus, offer document or advertisement soliciting money from the public and are further restrained and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, from the date of this Order, till the expiry of 4 (four) years from the date of completion of refunds to investors as directed above. The above said person is also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI for a period of 4 (four) years from the date of this Order.

(n) Mr. Virendra Prasad Sinha, Ms. Prema Kumari, Mr. Rakesh Kumar, Ms. Manju Pathak, Mr. Surendra Nath Singh and Ms. Krishna Devi are directed not to, directly or indirectly, access the securities market, by issuing prospectus, offer document or advertisement soliciting money from the public and are further restrained and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, for a period of 4 (four) years from the date of this Order. The above said persons are also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI for a period of 4 (four) years from the date of this Order.

(o) Proceedings against Mr. Govind Madhav Jha and Mr. Anjani Kumar are abated and the directions passed by the interim order against the said Noticees are revoked.

(p) The above directions shall come into force with immediate effect.

77. The effect and implementation of this Order is subject to and shall be read in harmony with the directions passed by the Court of Metropolitan Magistrate, New Delhi vide order dated September 22, 1999, the interim order dated February 13, 2001 passed by the Hon'ble High Court of Patna in the Company Petition no. 4/2000 and any order that may be passed in the said Company Petition no. 4/2000 pending before the Hon'ble High Court of Patna.

78. Accordingly, SEBI shall place a copy of the Order before the Hon'ble High Court of Patna in the matter of Company Petition no. 4/2000, before the Court of Metropolitan Magistrate, Saket, Delhi in the matter of FIR No. 334/98 for the offences under sections 420/409/120B of the Indian Penal Code, and the Office of the District Magistrate, Patna in connection with the matter bearing no. 119/2013-2014 filed by Mr. Sanjay Kumar Singh, before the ADM, Patna.

79. Copy of this Order shall be forwarded to the recognized stock exchanges, depositories and registrar and transfer agents for information and necessary action.

80. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs/

concerned Registrar of Companies, for their information and necessary action with respect to the directions/ restraint imposed above against the Company and the individuals.

81. A copy of this Order shall also be forwarded to the Local Police/State Government for information.

DATE: March 6th, 2018

PLACE: Mumbai

**MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**