

WTM/ AB /DDHS/Chandigarh – LO/ 07 /2019-20

**SECURITIES AND EXCHANGE BOARD OF INDIA
BEFORE WHOLE TIME MEMBER: ANANTA BARUA
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 Unique Multi Foods Industries Limited

In respect of:

Noticee no.	Name of the Noticee	CIN/DIN	PAN
1.	Unique Multi Foods Industries Limited	U01400PB2012PLC036347	Not Available
2.	Mr. Subash Chander Sharma	03446903	APXPS7159E
3.	Mr. Rajinder Singh	03634397	ABNPS5493D
4.	Mr. Malkinder Singh	07407549	ASWPS6806J
5.	Mr. Mohammad Mukhtar Atif	05301406	APDPA4103J
6.	Mr. Deepak Kumar Sah	03499812	CXDPS9936B
7.	Mr. Vidya Bhushan Ambastha	05303687	AIFPA8537P
8.	Mr. MD Sarfraz Ansari	03486568	AVSPA8138L
9.	Mr. Vinod Yadav	06560333	AIXPY8341D
10.	Mr. Sanjay Paramanik	06560339	BHYPP4459E
11.	Mr. Kamal Kishor Sagar	06560318	CSUPS4950H
12.	Mr. Sachin Kumar Thakur	06560350	AJUPT3341C
13.	Mr. Pramod Kumar	05137757	ATJPK5597L
14.	Mr. Rakesh Ranjan	06448600	AJVPR4961P
15.	Mr. Harjinder Singh	03634395	DPTPS7499Q
16.	Mr. Saurabh Kumar Gupta, Debenture Trustee (M/s Hamrahi Debenture Trust)	-	AKUPG6509J

The aforesaid entities are hereinafter referred to by their respective names/serial numbers or collectively as “the Noticees”.

Background:

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) received many investor complaints through the Registrar of Companies, Punjab and Chandigarh (hereinafter referred to as “RoC”) against Unique Multi Foods Industries Limited (hereinafter referred to as “UMFIL”/ “the company”) (formerly known as Amrit Ganga

Agricultural Products Industries Limited) regarding non- receipt of interest/ redemption amount on debentures issued by the company. SEBI also received complaints from some investors enclosing debenture certificates issued by UMFIL to certain allottees.

2. The company UMFIL was incorporated on June 15, 2012. Based on the complaints received and the debenture certificates made available to SEBI, the details of debentures issued by UMFIL are as under:

Year	No. of debenture certificates	No. of allottees	No. of debentures	Issue Value (in Rs.)
2015-16	290	204	4,45,330	4,45,33,000
Total	290	204	4,45,330	4,45,33,000

3. Based on the addresses of the investors, RoC vide letter dated January 01, 2017 informed SEBI that the company, UMFIL is operating in Punjab, Bihar, Jharkhand, Haryana and Uttar Pradesh. It also observed that the company is issuing debentures in the garb of private placement of securities without complying with the public issue norms of SEBI and other applicable laws.
4. Based on the letters received from RoC, the matter was taken up for examination and SEBI issued letter dated January 19, 2017 to UMFIL and its present directors i.e. Noticee nos. 2 to 4, advising them to furnish inter alia the following information within 15 days from the date of the said letter.
- Memorandum and Articles of Association of the company as filed with RoC,
 - Name, addresses, PAN and contact details of all the past and present promoters/directors/ Key Managerial Personnel of the company,
 - Balance Sheets, Profit and Loss Accounts, Annual Returns of the company since incorporation,
 - Nature of Business and PAN of the company.
 - Other Information in respect of issue of debentures
 - Brochures pertaining to the company's schemes/ plans/ offers which were made available to the public,
 - Prospectus / Red Herring Prospectus/ Pamphlets/ Advertisements issuance of Shares /Debentures,
 - Application forms inviting subscription for Debentures and number of applications received,
 - Copies of certificates issued to the investors to subscribe to such Debentures,
 - Copies of agreements/ contracts entered with clients,

- f. Details regarding filing of Prospectus. Red Herring Prospectus with RoC,
 - g. Details of regulatory approvals,
 - h. Details of allottees in the format provided
 - i. Copies of the minutes of Board/committee meeting in which the resolution has been passed for issue and allotment of debentures.
 - j. Copies of application forms, pamphlets, advertisements and other promotional material circulated for issuance of Shares/ Debentures.
 - k. Terms and conditions of the issue of Debentures.
5. Letters dated January 19, 2017, February 03, 2017 and May 01, 2017 issued to the company at its registered address, Punjabi Bag, P.S. & Post Office, Lehra, Sangrur – 148031 (Punjab) and other available address at First Floor, Star Complex, Basti Adda Chowk, Jalandhar -144001 seeking the aforesaid information returned undelivered. On May 08, 2017, officials of SEBI also visited the registered office of the company. It was observed that no such company in the name of UMFIL was operating from the said premises.
6. In response to the letters issued to the directors, Noticee nos. 2, 7, 10, 11 and 13 namely, Mr. Subhash Chander Sharma, Mr. Vidya Bhushan Ambastha, Mr. Sanjay Paramanik, Mr. Kamal Kishor Sagar and Mr. Pramod Kumar have replied through various letters. Letter dated February 03, 2017 and reminder letter dated May 01, 2017 issued to Noticee nos. 3, 4, 5, 6, 8, 9, 12, 14 and 15 namely, Mr. Rajinder Singh, Mr. Malkinder Singh, Mr. Mohammad Mukhtar Atif, Mr. Deepak Kumar Sah, Mr. MD Sarfraz Ansari, Mr. Vinod Yadav, Mr. Sachin Kumar Thakur, Mr. Rakesh Ranjan and Mr. Harjinder Singh returned undelivered.

Consideration of Issues

7. The issues in the present matter that require consideration are as under:
- I. Whether the issue of debentures by UMFIL can be prima facie treated as a deemed public issue?
 - II. If the answer at (I) above is affirmative, whether UMFIL prima facie failed to comply with the public issue norms laid down under the Companies Act, SEBI Act and Regulations?
 - III. Whether the Debenture Trustee has acted in violation of the Companies Act, SEBI Act and Regulations?

8. In terms of the relevant provisions of the Section 24 (1) of the Companies Act, 2013, the provisions contained in Chapter III (Sections 23 to 42), Chapter - IV (Sections 43 to 72) and Section 127 of the Companies Act, 2013 in the case of listed public companies and in the case of those public companies which intend to get their securities listed on any recognised stock exchange in India, be administered by SEBI by making regulations in this behalf. In this regard, it is pertinent to note that by virtue of the said Section 24 of the Companies Act, 2013, Section 42 of that Act, so far as it relates to issue and transfer of securities, shall also be administered by SEBI in the case of companies who intend to get their securities listed on a recognized stock exchange. In view of the above, by virtue of Section 24 (1) and (2) of the Companies Act, 2013, SEBI has jurisdiction and would govern the alleged public issue of debentures made by the company, UMFIL.

I. Whether the issue of debentures by UMFIL can be prima facie treated as a deemed public issue?

9. As per Section 42 (2) of the Companies Act, 2013 (Explanation-I) read with Rule 14 (2) (b) of the Companies (Prospectus and Allotment of Securities) Rules, 2014, if a company, listed or unlisted, makes an offer to allot or invites subscription of securities to more than the prescribed number of persons, i.e. more than 200 persons whether the company intends to list its securities or not on any recognized stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of the Chapter III of Companies Act, 2013 (which deals with the provisions in respect of Public Issue by Companies). Section 42 of the Companies Act, 2013 is reproduced as under:

42. Offer or invitation for subscription of securities on private placement.—

...

(2) Subject to sub-section (1), the offer of securities or invitation to subscribe securities, shall be made to such number of persons not exceeding fifty or such higher number as may be prescribed, [excluding qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62], in a financial year and on such conditions (including the form and manner of private placement) as may be prescribed.*

Explanation I.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more

than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.

* As per the Rule 14 (2) (b) of the Companies (Prospectus and Allotment of Securities) Rules, 2014, a company shall not make a such offer or invitation through private placement of securities to more than two hundred persons in the aggregate in a financial year.

10. Based on the complaints received and the debenture certificates made available to SEBI, it is observed that the company UMFIL issued Secured Redeemable Non – Convertible Debentures (hereinafter referred to as “SRNCDs”). The details of the SRNCDs issued by UMFIL is as under:

Year	No. of debenture certificates	No. of allottees	No. of debentures	Issue Value
2015-16	290	204	4,45,330	4,45,33,000
Total	290	204	4,45,330	4,45,33,000

I find that the company allotted SRNCDs to more than 200 persons in the year 2015-16. Therefore, in terms of section 42 of the Companies Act, 2013 read with Rule 14(2) of the Companies (Prospectus and Allotment of Securities) Rules, 2014 (Section 67 of the erstwhile Companies Act, 1956), I find that the said issue of SRNCD by UMFIL is a deemed public issue.

11. In this regard, I also note the observations of the Hon’ble Supreme Court in *Sahara India Real Estate Corporation Ltd. & Others v. SEBI and Another* [2012] 174 Comp Cas 154 (SC) wherein the Hon’ble Supreme Court examined the scope of Section 67 of the Companies Act, 1956, (corresponding provision-Section 42 of companies Act, 2013 which is effective from April 01, 2014). The Court observed:

“.....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. ...

I may, therefore, indicate, subject to what has been stated above, in India that any share or debenture issue beyond forty nine persons, would be a public issue attracting all the relevant provisions of the SEBI Act, regulations framed thereunder, the Companies Act, pertaining to the public issue. ..."

II. If the answer at (I) above is affirmative, whether the company, UMFIL failed to comply with the public issue norms laid down under the Companies Act, SEBI Act and Regulations?

12. Having observed that the SRNCDs issued by UMFIL are prima facie in the nature of deemed public issue, the company was required to comply with all the provisions of the Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956 and the SEBI Act related to public offer as stipulated under section 42 (4) of the Companies Act, 2013.

13. According to section 23 (1) (a) of the Companies Act, 2013, a public company may issue securities to public through prospectus by complying with the provisions of Part I (sections 23 to 41) of Chapter III of Companies Act, 2013. The company, UMFIL did not issue any prospectus in connection with the issue of SRNCDs in FY 2015-16. Therefore, I find that UMFIL has violated section 23 (1) (a) of the Companies Act, 2013.

14. Section 26 (4) read with Section 2 (70) of the Companies Act, 2013 mandates that a company needs to deliver a copy of its prospectus to the Registrar of Companies for registration, before making a public offer or issuing the prospectus. The relevant provisions are reproduced as under:

26. Matters to be stated in prospectus.— (1) Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall—

...

(4) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless on or before the date of its publication, there has been delivered to the Registrar for registration, a copy thereof signed by every person who is named therein as a director or proposed director of the company or by his duly authorised attorney.

Section 2 (70) of the Companies Act, 2013 states that:-

prospectus means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of body corporate;

15. In the instant case, I find that the company has not filed a copy of its prospectus with the RoC. Therefore, I find that the company has violated the Sections 23 (1) and 26 (4) read with Section 2(70) of the Companies Act, 2013.

16. As per Section 40 of Companies Act, 2013, every company intending to offer debentures to the public for subscription by the issue of a prospectus shall, before such issue, make an application to one or more recognized stock exchanges for permission for the debentures intending to be so offered to be dealt with in the stock exchange or each such stock exchange. The relevant clauses of section 40 of the Companies Act, 2013 are reproduced as under:

40 (1) Every company making public offer shall, before making such offer, make an application to one or more recognized stock exchange or exchanges and obtain permission for the securities to be dealt with in such stock exchange or exchanges.

(2) Where a prospectus states that an application under sub-section (1) has been made, such prospectus shall also state the name or names of the stock exchange in which the securities shall be dealt with.

17. In the *Sahara Case* (Supra), the Hon'ble Supreme Court of India also examined Section 73 of the Companies Act, 1956 (now Section 40 of the Companies Act, 2013), wherein it observed that –

“Section 73(1) of the Act casts an obligation on every company intending to offer shares or debentures to the public to apply on a stock exchange for listing of its securities. Such companies have no option or choice but to list their securities on a recognized stock exchange, once they invite subscription from over forty nine investors from the public. If an unlisted company expresses its intention, by conduct or otherwise, to offer its securities to the public by the issue of a prospectus, the legal obligation to make an application on a recognized stock exchange for listing starts. Sub-section (1A) of Section 73 gives indication of what are the particulars to be stated in such a prospectus. The consequences of not applying for the permission under sub-section (1) of Section 73 or not granting of permission is clearly stipulated in sub-section (3) of Section 73. Obligation to

refund the amount collected from the public with interest is also mandatory as per Section 73(2) of the Act. Listing is, therefore, a legal responsibility of the company which offers securities to the public, provided offers are made to more than 50 persons.

... Section 73(2) says that every company and every director of the company who is an officer in default, shall 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. The scope of the above mentioned provisions came up for consideration before this Court in Raymond Synthetics Ltd. & Ors. V. Union of India (supra), wherein the Court held that in a case where the company has not applied for listing on a stock exchange, the consequences will flow from the company's disobedience of the law, the liability to pay interest arises as from the date of receipt of the amounts, for the company ought not to have received any such amount in response to the prospectus. I am, therefore, of the view that since Saharas had violated the listing provisions and collected huge amounts from the public in disobedience of law, SEBI is justified in directing refund of the amount with interest."

18. In view of the above and the observations at para 10 wherein it has been observed that the offer of SRNCDs by UMFIL is prima facie a deemed public issue, the same will attract the requirement of compulsory listing before a recognized stock exchange in terms of section 40(1) of the Companies Act, 2013. I find that UMFIL did not make any application for listing of securities to any recognized stock exchange. Therefore, I find that UMFIL has violated section 40(1) of the Companies Act, 2013.

19. In terms of section 40(3) of the Companies Act, UMFIL was also required to keep the monies received on application from the public for subscription to the debentures in a separate bank account.

40.

...

...

(3) All monies received on application from the public for subscription to the securities shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than—

(a) for adjustment against allotment of securities where the securities have been permitted to be dealt with in the stock exchange or stock exchanges specified in the prospectus; or

(b) for the repayment of monies within the time specified by the Securities and Exchange Board, received from applicants in pursuance of the prospectus, where the company is for any other reason unable to allot securities.

I find that the company did not maintain a separate bank account. Therefore, I find that UMFIL has violated the provisions of Section 40 (3) of Companies Act, 2013.

20. As per Section 71(4) of the Companies Act, 2013, where a company issues debentures, it shall create a debenture redemption reserve for the redemption of such debentures, to which adequate amounts shall be credited, from out of its profits every year until such debentures are redeemed. I find that the company UMFIL has not complied with the provisions of Section 71(4) of the Companies Act, 2013.

21. In addition to the above, a company which intends to issue the debentures to public has to comply with the provisions of SEBI (Issue and Listing of Debt Securities) Regulations, 2008. I observe that company UMFIL has not complied with the following provisions of SEBI (Issue and Listing of Debt Securities) Regulations, 2008:

- (i) Regulation 4(2)(a)–Application for listing of debt securities
- (ii) Regulation 4(2)(b)–In-principle approval for listing of debt securities
- (iii) Regulation 4(2)(c)–Credit rating has not been obtained
- (iv) Regulation 4(2)(d)–Dematerialization of debt securities
- (v) Regulation 4(3)–Appointment of Merchant Banker
- (vi) Regulation 4(4)–Appointment of Debenture Trustee
- (vii) Regulation 5(2)(b)–Disclosure requirement in the Offer Document
- (viii) Regulation 6–Filing of draft Offer Document
- (ix) Regulation 7–Mode of disclosure of Offer Document
- (x) Regulation 8–Advertisements for Public Issues
- (xi) Regulation 9–Abridged Prospectus and Application Forms
- (xii) Regulation 12–Minimum subscription
- (xiii) Regulation 14–Prohibition of mis-statements in the Offer Document
- (xiv) Regulation 15–Trust Deed
- (xv) Regulation 16–Debenture Redemption Reserve
- (xvi) Regulation 17–Creation of security
- (xvii) Regulation 19–Mandatory Listing
- (xviii) Regulation 26–Obligations of the Issuer

22. In view of the above, I find that UMFIL failed to comply with the public issue norms laid down under the Companies Act, SEBI Act and Regulations.

III. Whether the Debenture Trustee has acted in violation of the Companies Act, SEBI Act and Regulations?

23. Section 12 (1) of SEBI Act, 1992 stipulates that a trustee of a trust deed shall act so only after obtaining a certificate of registration in accordance with the regulations made under this Act. In this connection, it is pertinent to note regulation 7 of SEBI (Debenture Trustee) Regulations, 1993 which states that no person shall act as debenture trustee unless he is either a scheduled bank carrying on commercial activity, or a public financial institution within the meaning of Section 4A of the Companies Act, 1956, or an insurance company or a body corporate. The relevant provisions are as under:

Section 12(1) of the SEBI Act:

No-----trustee of trust deed.....shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act.

Regulation 7 of SEBI (Debenture Trustee) Regulations, 1993

No person should act as a debenture trustee unless he is either-

- i. A scheduled bank carrying on commercial activity; or*
- ii. A public financial institution within the meaning of Section 4A of the Companies Act, 1956; or*
- iii. An insurance company; or*
- iv. body corporate*

24. I note that vide letter dated January 02, 2017 the RoC had also forwarded Form 10 ('Particulars for registration of charges for debentures') filed by the company UMFIL to raise an amount of Rs. 50 Crores through issuance of debentures. According to the Form 10, the company UMFIL has entered into a Debenture Trust Deed dated June 18, 2012 with Mr. Saurabh Kumar Gupta as Debenture Trustee. I note that the company had appointed Mr. Saurabh Kumar Gupta as Debenture Trustee for the offer of SRNCDs who is not registered with SEBI as a Debenture Trustee. Letter dated February 03, 2017 issued to the Debenture Trustee, Mr. Saurabh Kumar Gupta, M/s Hamrahi Debenture Trust returned undelivered. Further, reminder dated May 01, 2017 issued to him also returned undelivered. Based on an undated letter received by SEBI on May 23, 2017 from Mr. Pramod Kumar, a letter dated May 26, 2017 was sent to Mr. Saurabh Kumar Gupta, Chartered Accountant (hereinafter referred to as "CA") and Debenture Trustee asking his

association with the company UMFIL, its present and past directors and he was asked to provide detail of the present and past directors. Copy of the letter was also sent at his other available address. It was observed that Mr. Saurabh Kumar Gupta acted as Debenture Trustee in the name of M/s Hamrahi Debenture Trust and as a CA. He had also arranged the change in the directorships of the company. Therefore, a letter dated June 01, 2017 was sent to him attaching copy of all the letters issued to the company, directors, debenture trustee along with copy of letter dated May 26, 2017. No reply was received from both the addresses, subsequently a final reminder dated June 12, 2017 was issued at both the addresses. All the letters issued to Mr. Gupta at his Kolkata address returned undelivered and one letter out of three letters issued at his Bihar address returned undelivered. No reply / information has been received from Mr. Gupta. I find that Mr. Saurabh Kumar Gupta by acting as Debenture Trustee without obtaining certificate of registration from SEBI, Mr. Saurabh Kumar Gupta has violated section 12 (1) of SEBI Act, 1992 read with regulation 7 of SEBI (Debenture Trustee) Regulations, 1993.

25. As per Section 42(4) of the Companies Act, 2013, all the provisions of the Companies Act, 2013, and the Securities Contracts (Regulation) Act, 1956 and the SEBI Act, 1992 are required to be complied with in respect of deemed public issue. The consequence of non-compliance is stipulated in Section 42 (10) and Section 42 (4) of the Companies Act, 2013 read with Section 24 of the Companies Act, 2013 (all as it stood as on the date of deemed public issue). One of the consequences, as per section 42 (10) of the Companies Act, 2013 is that if a company makes an offer or accepts monies in contravention of section 42, the company, its promoters and directors shall be liable for a penalty as mentioned therein and the company shall also refund all monies to subscribers within a period of thirty days of the order imposing the penalty. I note that as per the provisions of Section 24(2) of the Companies Act, 2013, SEBI can exercise its powers under Sections 11(1), 11A, 11B and 11(4) of the SEBI Act inter alia in respect of issue and transfer of securities by listed companies or those companies which intend to get their securities listed on any recognized stock exchange in India including deemed public issue. Therefore, SEBI can exercise the said powers for non-compliances of deemed public issue norms under the SEBI Act or under the SEBI (Issue and Listing of Debt Securities) Regulations framed under the SEBI Act. Therefore, SEBI in exercise of its mandate under Section 24 (1) of the Companies Act, 2013 read with Section 11B of the

SEBI Act can take various investor protection measures so far as it relates to issue and transfer of securities. The said measures can include direction to refund the money collected by the Company under its deemed public issue in violation of applicable laws under the Companies Act, 2013 read with SEBI (Issue and Listing of Debt Securities) Regulations. I note that this liability under section 11B of the SEBI Act to refund the money collected by the Company by way of issue of SRNCDs by the Company, flows as a consequence of violation of “deemed public issue” norms.

26. The details of the present and past directors of UMFIL is as under:

Sl. No.	Name	Designation	DIN	Date of appointment	Date of Cessation
Details of Present Directors					
1	Mr. Subash Chander Sharma	Director	03446903	February 05, 2016	-
2	Mr. Rajinder Singh	Director	03634397	February 19, 2015	-
3	Mr. Malkinder Singh	Director	07407549	January 19, 2016	-
Details of Past Directors					
1	Mr. Mohammad Mukhtar Atif	Director	05301406	June 15, 2012	May 03, 2013
2	Mr. Deepak Kumar Sah	Director	03499812	June 15, 2012	September 20, 2012
3	Mr. Vidya Bhushan Ambastha	Director	05303687	June 15, 2012	May 03, 2013
4	Mr. MD Sarfraz Ansari	Managing Director	03486568	June 15, 2012	February 21, 2015
5	Mr. Vinod Yadav	Director	06560333	May 03, 2013	February 19, 2015
6	Mr. Sanjay Paramanik	Director	06560339	May 03, 2013	February 19, 2015
7	Mr. Kamal Kishor Sagar	Director	06560318	May 03, 2013	February 19, 2015
8	Mr. Sachin Kumar Thakur	Director	06560350	May 03, 2013	February 19, 2015
9	Mr. Pramod Kumar	Managing Director	05137757	May 03, 2013	February 19, 2015
10	Mr. Rakesh Ranjan	Director	06448600	February 19, 2015	January 19, 2016
11	Mr. Harjinder Singh	Director	03634395	February 19, 2015	February 05, 2016

27. As observed in para 10, during the financial year 2015-16, UMFIL had apparently issued more than 4,45,330 SRNCDs through 290 debenture certificates to 204 allottees and mobilized Rs. 4,45,33,000/-. The directors of UMFIL at the relevant time were Noticee nos. 2, 3, 4, 14 and 15 namely, Mr. Subhash Chander Sharma, Mr. Rajinder Singh, Mr. Malkinder Singh, Mr. Rakesh Ranjan and Mr. Harjinder Singh. Letters issued to the said directors returned undelivered except Mr. Subhash Chander Sharma who filed his reply vide letter dated November 27, 2018.
28. In his reply dated November 27, 2018, Mr. Subhash Chander Sharma submitted that he was not involved in the fund mobilization by the company. He submitted that he joined the company as a director on February 05, 2016 and forwarded his resignation to the RoC in June 2016.
29. In response to SEBI's letter dated February 03, 2017, Mr. Pramod Kumar vide undated letter received by SEBI on March 29, 2017 replied that he was appointed as Managing Director of the company for a short span of time. He stated that during his tenure as a director, no debentures was issued. He stated that he came to know about issuing of debentures of the company through SEBI's letter. In another undated letter received by SEBI on May 23, 2017, he has stated that all the documents are available with Mr. Saurabh Kumar Gupta, CA who had helped him to become the director of UMFIL and subsequently arranged all the documentation in connection with his resignation. The RoC records indicate that Mr. Pramod Kumar was appointed as director on May 03, 2013 and ceased to be director on February 19, 2015.
30. Mr. Sanjay Paramanik and Mr. Kamal Kishore Sagar replied through a common undated letter received by SEBI on March 31, 2017. They have stated that they had given documents such as voter ID, PAN and passport size photos to Mr. Pramod Kumar who had approached them through a friend. They stated that when they received a letter from the RoC, they made enquiries and came to know they were made directors of UMFIL. They stated that Mr. Pramod Kumar is fully responsible for their appointment as directors. Upon perusal of RoC records, it is observed that Mr. Sanjay Paramanik and Mr. Kamal Kishore Sagar were appointed as directors of UMFIL on May 03, 2013 and ceased

to be directors on February 19, 2015. Their appointment and cessation date are same as of Mr. Pramod Kumar.

31. Vide letter dated May 01, 2017 Mr. Pramod Kumar was advised to provide the name, address and contact no. of the CA who had helped him in appointment and resignation as director of UMFIL. Mr. Pramod Kumar replied through an undated letter received by SEBI on May 23, 2017 stating that the three of them namely, Mr. Sanjay Paramanik, Mr. Kamal Kishor Sagar and himself contacted Mr. Saurabh Kumar Gupta for formation of a company. Mr. Pramod stated that they gave Mr. Saurabh Kumar Gupta an initial amount of Rs. 15,000/- vide cheque no. 021491 dated May 13, 2013 for formation of a new company. On the recommendation of Mr. Saurabh Gupta, Mr. Pramod Kumar Gupta alongwith Mr. Sanjay Paramanik and Mr. Kamal Kishor Sagar paid Rs. 3,00,000/- to Mr. Saurabh Gupta for becoming directors of the company UMFIL. Mr. Pramod Kumar Gupta stated that after assuming office as directors of UMFIL, disputes occurred among the directors and they approached Mr. Saurabh Kumar Gupta for closing the company. According to Mr. Pramod Kumar, on the Mr. Saurabh Kumar Gupta instead of closing the company, they resigned from directorship of UMFIL. He also stated that he did not receive any consideration for his resignation. Regarding appointments of Mr. Sanjay Paramanik and Mr. Kamal Kishor Sagar as directors of UMFIL, Mr. Pramod Kumar stated that they agreed to be directors of the company and they had provided documents, signed all the documents and they were aware about all the facts.
32. An undated letter was received by SEBI on May 12, 2017 from Mr. Vidya Bhushan Ambastha (ex-director) stating that he is not aware about the company UMFIL and he is not aware of how he became director in the company UMFIL. He stated that he is suffering from illness and in support of the same he attached medical documents.
33. In the Debenture Trust Deed dated June 18, 2012, it is indicated inter alia that “... *the company have decided by a resolution passed by the Board of Directors in the meetings of the Board held on 18 JUNE 2012 & JUNE 18, 2012 to raise a sum of Rs. 50 Crores by issue of Debentures of Rs. 100/- each bearing interest as specified in Schedule I frames in accordance with the forms set forth in Schedule II hereto and secures the same by mortgaging with the trustee the properties described in the Schedule III hereto.*”

34. As per the Schedule I of Debenture Trust Deed, the plans offered by UMFIL are as under:

Scheme I: Multiplier Non-Convertible Redeemable Secured Debenture

Plan	G-12	G-24	G-36	G-60	G-96	G-120	R-36
Redemption Period	1 Yrs	2 Yrs	3 Yrs	5 Yrs	8 Yrs	12 Yrs	5 Yrs
Amount per Debenture	100/-	100/-	100/-	100/-	100/-	100/-	100/-
Minimum Debenture	10	10	10	10	10	10	10
Redemption Amount	1160/-	1320/-	1540/-	2300/-	4500/-	10000/-	6025/-

Scheme II: Regular Income Non-Convertible Redeemable Secured Debenture

Plan	S-12	S-24	S-36	S-60	M-36
Applied Debenture	12	24	36	60	36
Issue Price	1200/-	2400/-	3600/-	6000/-	3600/-
Redemption Value	1440/-	3110/-	5190/-	9840/-	7200/-
Redemption Period	15 Months + 1 Day	27 Months + 1 Day	39 Months + 1 Day	63 Months + 1 Day	60 Months

Scheme III: Regular Income Non-Convertible Redeemable Secured Debenture

Redemption Period	2 Yrs	3 Yrs	5 Yrs	8 Yrs
Interest payable monthly	250	295	340	400
Maturity Bonus	1%	3%	5%	7%

In Schedule III of the Debenture Trust Deed the details of the properties to be mortgaged to secure the Debentures is provided as, “*all the present and future assets wherever situated of the company*”.

35. From the above, I note that UMFIL had created a charge on its assets vide Debenture Trust Deed dated June 18, 2012. The directors at the relevant time i.e. at the time of approval of the Board Resolution dated June 18, 2012 were Mr. MD Sarfraz Ansari, Mr. Mohammad Mukhtar Atif, Mr. Deepak Kumar Sah and Mr. Vidya Bhushan Ambastha. According to the record, no information is available whether the company had mobilized the money by issuing debentures in the years 2012, 2013 and 2014. However, SEBI is in receipt of an Application Form issued by the company UMFIL in connection with issue of SRNCD under the Companies Act, 1956. It has also been stated in the application form that the company is managed by Mr. Harjinder Singh, Director of the company. All the aforesaid facts, indicate that the company may have been mobilizing money from

investors even before FY 2015 -16 as the application forms have been issued under Companies Act, 1956. Accordingly, the past directors viz., the Noticee Nos. 5 to 15 will be liable for refund of the money, if collected during 2012 to 2015 in contravention of the provisions of the Companies Act, SEBI Act and its regulations.

36. From the information obtained from RoC, complaints received from the investors and observations made in this order in paras 9 – 22, it can be reasonably inferred that the money mobilization on part of UMFIL through issue of SRNCDs was made without obtaining credit rating, complying with listing requirements, disclosure requirements etc. and are detrimental to the interest of investors and the integrity of the securities market. In light of the facts in the instant matter, I find this to be a fit case to pass ad-interim directions against UMFIL and its Directors.

37. As per the provisions of Section 24 of the Companies Act, 2013, SEBI is empowered to act on the subjects relating to public issue of securities is exclusively with SEBI. For this purpose, SEBI can exercise its jurisdiction under Sections 11(1), 11(4), 11A and 11B of the SEBI Act read with Section 24(1) of the Companies Act, 2013. As explained in the forgoing paragraphs, the current issue of SRNCDs by UMFIL, is prima facie in violation of the public issue norms stipulated in the Companies Act, 2013 and SEBI (Issue and Listing of Debt Securities) Regulations, 2008 as the issue of SRNCDs by UMFIL is a deemed public issue. I note that the company has not filed any balance sheet / annual returns since incorporation. As stated in para 35, there is a possibility that the company might be continuing its fund mobilizing activities through issue of SRNCDs and hence there is an urgent need to refrain the company from continuing the mobilization of monies in violation of section 42 of the Companies Act and the SEBI (Issue and Listing of Securities) Regulations. In case of deemed public issues, SEBI normally directs the company to refund the monies to the investors from whom it has collected the monies. I note that there is a possibility that the company may dispose of its assets which might otherwise be utilized for repaying to the investors in case of failure to refund the same to the investors by the company. Therefore, to ensure refund of monies, it is necessary that the company does not dispose of its assets and hence, there is an urgent need to refrain the company from disposing of any of the properties or alienate or encumber any of the assets owned/acquired by the company through issue of SRNCDs. Section 11 of the SEBI

Act has empowered it to take such measures as it deems fit. In the instant matter, measures have to be taken to ensure that only legitimate fund raising activities are carried on by UMFIL and investors from whom money has been mobilized without complying the requisite norms are refunded. In view of this, I find that there is no other efficacious alternative but to take recourse through an interim action against UMFIL and its Directors, for preventing the company from further carrying on with its fund mobilizing activity under the Offer of SRNCDs.

DIRECTIONS

38. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11 (1), 11(4) and 11B of the SEBI Act hereby issue, with immediate effect, the following directions, which shall remain in force until further orders:-

- (a) Noticee no. 1, UMFIL shall forthwith cease to mobilize any fresh funds from investors through the offer of SRNCDs or through the issuance of equity shares or any other securities, to the public and/or invite subscription, in any manner whatsoever, either directly or indirectly till further directions;
- (b) Noticee no. 1, UMFIL and its present directors, Noticees nos. 2 to 4 namely, Mr. Subash Chander Sharma, Mr. Rajinder Singh and Mr. Malkinder Singh are hereby 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;
- (c) Noticee no. 1, UMFIL and its present directors, Noticees nos. 2 to 4 namely, Mr. Subash Chander Sharma, Mr. Rajinder Singh and Mr. Malkinder Singh are hereby restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities (including units of mutual funds), directly or indirectly, or being associated with the securities market in any manner, whatsoever. During the period of restraint, the existing holding (including units of mutual funds) of the aforesaid Noticees shall remain frozen;
- (d) Noticee no. 1, UMFIL and its present directors, Noticees nos. 2 to 4 namely, Mr. Subash Chander Sharma, Mr. Rajinder Singh and Mr. Malkinder Singh shall not

dispose of any of the properties or alienate or encumber any of the assets owned/acquired by the company through the offer of SRNCDs, without prior permission from SEBI;

- (e) Noticee no. 1, UMFIL and its present directors, Noticees nos. 2 to 4 namely, Mr. Subash Chander Sharma, Mr. Rajinder Singh and Mr. Malkinder Singh shall not divert any funds raised from public through the offer and allotment of SRNCDs;
- (f) Noticee no. 1, UMFIL and its present directors, Noticees nos. 2 to 4 namely, Mr. Subash Chander Sharma, Mr. Rajinder Singh and Mr. Malkinder Singh 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, within 21 days from the date of receipt of this order. It is clarified that the present directors of UMFIL shall ensure and facilitate the compliance of this direction by UMFIL;
- (g) Noticee nos. 1 to 15 namely, UMFIL, Mr. Subash Chander Sharma, Mr. Rajinder Singh, Mr. Malkinder Singh, Mr. Mohammad Mukhtar Atif, Mr. Deepak Kumar Sah, Mr. Vidya Bhushan Ambastha, Mr. MD Sarfraz Ansari, Mr. Vinod Yadav, Mr. Sanjay Paramanik, Mr. Kamal Kishor Sagar, Mr. Sachin Kumar Thakur, Mr. Pramod Kumar, Mr. Rakesh Ranjan and Mr. Harjinder Singh shall within 45 days of receipt of this Order provide to SEBI all information regarding amount mobilized including names of the debenture holders and their addresses, number of SRNCDs issued, promised maturity amount with date of maturity, amount refunded and date thereof during the financial years 2012 – 2016;
- (h) The Debenture Trustee, Mr. Saurabh Kumar Gupta (M/s Hamrahi Debenture Trust), is prohibited from continuing with its present assignment as a debenture trustee in respect of the Offer of SRNCDs of UMFIL and also from taking up any new assignment or involvement in any new issue of debentures, etc. in a similar capacity, from the date of this Order till further directions.

39. The preliminary findings contained in paragraphs 8 to 35 of this Order are made on the basis of the information obtained from RoC and complaints received from the investors. Noticee no. 1, UMFIL and the present and past directors of UMFIL namely Noticee nos.

2 to 15, Mr. Subash Chander Sharma, Mr. Rajinder Singh, Mr. Malkinder Singh, Mr. Mohammad Mukhtar Atif, Mr. Deepak Kumar Sah, Mr. Vidya Bhushan Ambastha, Mr. MD Sarfraz Ansari, Mr. Vinod Yadav, Mr. Sanjay Paramanik, Mr. Kamal Kishor Sagar, Mr. Sachin Kumar Thakur, Mr. Pramod Kumar, Mr. Rakesh Ranjan and Mr. Harjinder Singh 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 against them, including the following directions, viz. –

- (a) Directing UMFIL, its past and present directors to refund money collected from investors through the issue of SRNCDs during the relevant period, along with interest of 15% per annum;
- (b) 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 internet banking channels such as NEFT or RTGS with appropriate audit trail;
- (c) Directing UMFIL, its past and present directors 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, till the expiry of four years from the date of completion of refund to the investors as directed at para 39(a);
- (d) Restraining UMFIL, its past and present directors and debenture trustee, viz. Mr. Saurabh Kumar Gupta from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities till the expiry of four years from the date of completion of refund to the investors as directed at para 39(a).

40. 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 45 days from the date of receipt of this Order. In the event of the Noticees failing to file replies within 21 days or requesting for an opportunity of personal hearing within the said 45 days, the preliminary findings at paras 8 to 35 of this Order and directions at para 39 (a) to (d) above shall become final and absolute against the Noticees automatically, without any further orders. Upon the expiry of a period of 90

days from the date of this Order becoming final, SEBI may initiate appropriate enforcement action under SEBI Act, 1992 including, Adjudication, Prosecution and/ or Recovery in addition to making a suitable reference to State Government / Local Police. However, as regards, the amount to be refunded will depend upon the actual amount raised from the public which may not be limited to the amount filed by the company or as observed in para 10 above. To that extent the order will be subject to the aforesaid.

41. Copy of this Order shall be forwarded to the recognized stock exchanges, depositories and Registrars and Transfer Agents (RTA's) of Mutual Funds 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 company and the directors. A copy of this order shall also be forwarded to the Inspector General of Registration of all the States and Union Territories for information and necessary action.
42. All communications in respect of this interim order -cum- show cause notice shall be made to Mr. Jubin Mehta (AGM), Securities and Exchange Board of India, Local Office, SCO 127-128, First Floor, Sector 17C, Chandigarh - 160017, Chandigarh, as well as through email at jubinm@sebi.gov.in.

Place: Mumbai

Date: May 22, 2019

Sd/-

ANANTA BARUA

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA