# National Stock Exchange of India

## Circular

| Department: Investigation | |
|---|---|
| Download Ref No: NSE/INVG/63009 | Date: July 19, 2024 |
| Circular Ref. No: 349/2024 | |

To All NSE Members,

**Sub: SEBI Order in the matter of Rhine and Raavi Credits and Holdings Limited.**

This is with reference to NSE circular no. NSE/INVG/29293 dated March 27, 2015 in reference to SEBI order no. WTM/PS/92/NRO/MAR/2015 dated March 27, 2015 wherein, SEBI has restrained following entities from accessing the securities market and further prohibited them 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 years from the date of completion of refunds to investors.

| Name | PAN |
|---|---|
| Rhine and Raavi Credits and Holdings Limited | AAACN4793N |
| Birendra Kaji | BSIPK9909F |

SEBI now vide its order no. QJA/AN/NRO/NRO/30576/2024-25 dated July 19, 2024 has restrained above entities from buying, selling or otherwise dealing in the securities, directly or indirectly, for a period of 1 year. Further, SEBI vide above order has informed that restraint/ prohibition directed above shall commence upon completion of period of restraint referred to in paragraph 14 of above SEBI order dated July 19, 2024 i.e., in all, for a period of 5 years after completion of refund.

The detailed order is available on SEBI website (https://www.sebi.gov.in/enforcement.html).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page at the below mentioned link:

https://www.nseindia.com/regulations/member-sebi-debarred-entities

# National Stock Exchange of India

Members are advised to take note of the above and ensure compliance.

In case of any further queries, members are requested to email us at dl-invsg-all@nse.co.in

**For and on behalf of**
**National Stock Exchange of India Limited**

**Sandesh Sawant**
**Senior Manager**

**ANNEXURE: SEBI Order in the matter of Rhine and Raavi Credits and Holdings Limited.**

**QJA/AN/NRO/NRO/30576/2024-25**

**SECURITIES AND EXCHANGE BOARD OF INDIA**
**FINAL ORDER**

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

**In respect of:**

| Noticee No. | Name of the Noticee | PAN |
|---|---|---|
| 1. | Rhine and Raavi Credits and Holdings Limited | AAACN4793N |
| 2. | Birendra Kaji | BSIPK9909F |

*(The aforesaid entities are hereinafter individually referred to by their respective names/ Noticee numbers and collectively referred to as "Noticees")*

**In the matter of Rhine and Raavi Credits and Holdings Limited**

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## A. BACKGROUND:

1. Securities and Exchange Board of India ("**SEBI**") passed an ex-parte interim order cum show cause notice dated October 01, 2013 ("**Interim Order**") in respect of deemed public issue of Secured Non-Convertible Debentures ("**NCDs**") by the company, Rhine and Raavi Credits and Holdings Limited ("**RRCHL**"/ "the **Company**"). The Interim Order was passed against the Company and its promoters and directors including Mr. Birendra Kaji. The Company and its directors including Noticee no. 2 were given an opportunity to file their replies and also to avail personal hearing. However, no reply was received from the Company and its directors. Thereafter, SEBI passed a Final Order dated March 27, 2015 ("**Final Order**") wherein it was *inter alia* held that the Company and its directors including Mr. Birendra Kaji were involved in illegal mobilization of funds from the public through issuance of NCDs in contravention of public issue norms stipulated under the Companies Act, 1956. By way of the said Order, it was also directed that

*"26…….. SEBI may initiate separate proceedings against Mr. Birendra Kaji for the contravention of SEBI (Debenture Trustees) Regulations, 1993 and Section 117B and 117C of the Companies Act, 1956."*

2. Based on the above direction, SEBI conducted an examination to look into violations of SEBI Act, 1992, SEBI (Debenture Trustees) Regulations, 1993 ("**DT Regulations**"), SEBI (Issue and Listing of Debt Securities) Regulations, 2008 ("**ILDS Regulations**") and Companies Act, 1956 by the Noticees. Upon completion of examination, a Show Cause Notice (SCN) dated June 02, 2023 was issued to the Noticees.

## B. SHOW CAUSE NOTICE, REPLY AND HEARING

3. The *prima facie* conclusions arrived at in the SCN are as follows.
   - 3.1. SEBI conducted an analysis of the allegations made against the company in the complaints received from the Reserve Bank of India ("RBI"). A perusal of the complaints and the documents enclosed revealed that the Company had issued NCDs of INR 2,264 each to investors, to be redeemed with cumulative interest of 12.43% per annum on the maturity date. The Company was registered with RBI as a Non-Banking Financial Company (NBFC), however, as per the website of RBI, the registration of the Company as NBFC was 'cancelled'.
   - 3.2. SEBI sought relevant documents from the Company and the Registrar of Companies (RoC). The Company submitted a certified copy of the Board Resolution dated September 04, 2012, Form 10 filed with the RoC, copy of the 'certificate of registration of mortgage, etc. under section 132 of the Companies Act, 1956', the list of allottees of debentures and the balance sheets for the financial years 2010-2011 and 2011-12. The RoC had forwarded the Memorandum of Association ("MoA"), Articles of Association ("AoA"), copies of Form – 23AC, Form – 2 and Form 20B filed by the Company.
   - 3.3. From the list of the allottees of debentures submitted by the Company, it was revealed that it had issued NCDs to 744 allottees and mobilised INR 6.27 crores. However, from the minutes of the Board Resolution dated September

04, 2012, it was observed that the Company had passed a resolution for issuing 1,60,356 NCDs at INR 2,264 each. Accordingly, an amount of INR 36.30 crores has been raised by the Company. From the same, it was observed that the Company had not disclosed the details of all the allottees to whom the NCDs were issued. The details in Form 10 (particulars for registration of charges for debentures) filed by the Company with RoC also confirms that about INR 36.30 crores have been mobilized through the issuance of the NCDs to the investors. It was observed that the Company did not comply with the laws applicable to the public issues, while raising money through the issuance of NCDs.

3.4. From the brochure of the company available on record, the following was noted-

3.4.1. RRCHL issued pre-printed debenture application form in its website in order to facilitate the prospective investors to download the application and apply for debentures.

3.4.2. From the said application, it was clear that the application was for 12.43% Redeemable Secured Non-Convertible Debentures of INR 2264 each.

3.4.3. RRCHL also floated scheme with regard to the issuance of non-convertible debentures with two maturity periods:

3.4.3.1. One, with the maturity period of 4 years, offering 50% return.

3.4.3.2. Two, with the maturity period of 5 years 11 months, offering 100% return.

3.4.3.3. A Table with the package details (given in the brochure of company) of the schemes with regard to the issuance of non-convertible debentures with two maturity periods is given below:

| S. No. | Package | Package Amount | Units | Maturity in 4 years | Maturity in 5 years 11 months |
|---|---|---|---|---|---|
| 1. | R & R 1 Debenture | 2264 | 2 | 3396 | 4528 |
| 2. | R & R 2 Debenture | 4528 | 4 | 6792 | 9056 |
| 3. | R & R 3 Debenture | 6792 | 6 | 10188 | 13584 |

| S. No. | Package | Package Amount | Units | Maturity in 4 years | Maturity in 5 years 11 months |
|---|---|---|---|---|---|
| 4. | R & R 4 Debenture | 9056 | 8 | 13584 | 18112 |
| 5. | R & R 5 Debenture | 11320 | 10 | 16980 | 22640 |
| 6. | R & R 6 Debenture | 13584 | 12 | 20376 | 27168 |
| 7. | R & R 7 Debenture | 15848 | 14 | 23772 | 31696 |

3.4.4. It was also observed from the list of allottees submitted by the company that RRCHL issued non-convertible debentures to 744 allottees. However, copy of the Board Resolution dated 04.09.2012, submitted by the company shows that it issued 1,60,356 non-convertible debentures to the investors of INR 2,264 each. Therefore, the total amount of money which RRCHL generated from the market by issuance of non-convertible debentures comes out to INR 36.3 crores. Further, RRCHL did not provide any details to SEBI regarding list of allottees of 1,60,356 non-convertible debentures and money raised out of such issuance of debentures.

3.4.5. The Company also did not submit any material/ information indicating that the offer of NCDs to 744 or more allottees, from which it had raised INR 36.3 crores in September 2012, was intended to be a private placement meant only for a specific or selected group of persons. In view of the same, vide SEBI order dated March 27, 2015, the issuance of NCDs by the Company was held to be a public offer under the first proviso to sub-section (3) of section 67 of the Companies Act, 1956.

3.4.6. The Company did not submit copies of the prospectus, invitation letter or offer document through which it sought subscription from the investors, despite such information sought by SEBI repeatedly. The Company was mandated under section 73 of the Companies Act, 1956 to apply for permission for listing such securities on stock exchanges. The Company failed to do so, in contravention of Section 73 of the Companies Act, 1956. The Company was also alleged to have contravened the applicable provision of Companies Act, 1956, including sections 56, 60, 69 thereof.

3.4.7. Final Order dated March 27, 2015 was passed by SEBI against the Company and its directors namely, Mr. Rakesh Gupta, Mr. Birendra Kaji and Mr. Surendra Kumar for illegal mobilization of funds from public through the issuance of Secured Non-Convertible Debentures (NCDs) in contravention of the public issue norms stipulated under the Companies Act, 1956. Vide the said order, it was *inter alia* directed that *"…SEBI may initiate separate proceedings against Mr. Birendra Kaji for the contravention of SEBI (Debenture Trustees) Regulations, 1993 and Section 117B and 117C of the Companies Act, 1956."*

3.4.8. Based on the above directions, SEBI conducted an examination. Vide letter dated 07.10.2019, RRCHL and its directors namely, Mr. Rakesh Gupta, Mr. Birendra Kaji and Mr. Surendra Kumar were advised to provide details with regard to issuance of NCDs by the company in the month of July 2012 and August 2012 and the appointment of Birendra Kaji as debenture trustee of debenture holder/ charge holders. However, the said letters returned undelivered.

3.4.9. From Form – 10 (particular of registration of charges for debentures) filed by RRCHL on MCA portal with respect to the 'Creation of Charge' (for the debentures issued on 04.09.2012), it was noted that the Trustee of debenture holders/ charge holders was Mr. Birendra Kaji. On perusal of the debenture trust deed dated July 24, 2012 enclosed with Form 10, it is observed that the said deed has been signed by Rakesh Gupta (on behalf of RRCHL in the capacity as Director) and by Birendra Kaji on behalf of 'Rhine and Raavi Debenture Trust' in the capacity as Trustee. Hence, Mr. Birendra Kaji was appointed as a debenture trustee of RRCHL for the NCDs issued by RRCHL.

3.4.10. It was noted that Mr. Birendra Kaji was not registered with SEBI as a debenture trustee. Hence, by acting as an unregistered debenture trustee in individual capacity, Mr. Birendra Kaji was alleged to have violated section 12(1) of the SEBI Act, 1992 read with Regulation 7 of DT Regulations.

3.4.11. Further, SEBI vide Final Order dated March 27, 2015 already established that the NCDs issued by RRCHL were in the nature of public issue and that RRCHL has not complied with various provisions of ILDS Regulations.

3.4.12. Additionally, an associate person cannot become the trustee of 'Rhine and Raavi Debenture Trust'. Therefore, RRCHL has allegedly violated Regulation 4(4) of ILDS Regulations, section 117B of Companies Act, 1956 and Regulation 13A(a) of DT Regulations.

3.4.13. There is no record available in MCA portal to show that RRCHL had created Debenture Redemption Reserve. Hence, by not creating Debenture Redemption Reserve, RRCHL has been alleged to have violated Regulation 16 of ILDS Regulations read with section 117C of the Companies Act, 1956.

4. The SCN dated June 02, 2023 was sent to the Noticees on the addresses available on record through Speed Post with Acknowledgement Due (SPAD), however, the same returned undelivered. Thereafter, the SCN was served on the Noticees by way of public notices dated October 04, 2023. Subsequently, the SCN was also served on Birendra Kaji (who is currently understood to be in judicial custody in Central Jail, Bhagalpur) through the Jail Authorities at Central Jail, Bhagalpur and the acknowledgement of receipt dated October 26, 2023 was received from the Superintendent of Central Jail – Bhagalpur is available on record. However, no reply has been received from the Noticees till date.

5. The Noticees were also granted an opportunity of personal hearing on March 12, 2024. The hearing notice sent to Noticee no. 1 by way of SPAD returned undelivered. The hearing notice was delivered to Jail Authorities at Central Jail, Bhagalpur for service on Noticee no. 2. However, another letter sent to the Jail authorities with details for the video conference hearing returned with the remark – "addressee moved". Thereafter, Noticee no. 1 was granted an opportunity of personal hearing on May 15, 2024 and the hearing notice for the same was served by way of affixture on May 09, 2024. However, Noticee no. 1 failed to appear before

me on the date of the hearing. Subsequently, Noticee no. 2 was granted an opportunity of personal hearing on June 26, 2024 and the hearing notice for the same was served by way of public notices dated June 15, 2024. Noticee no. 2 also failed to appear before me on the date of the hearing.

6. In the matter of Classic Credit Ltd. V. SEBI [2007] SCL 51 (SAT-MUM), the Hon'ble Securities Appellate Tribunal (SAT), *inter alia*, held that, *“...The appellants did not file any reply to second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them."*. Further, in the case of Dave Harihar Kiritbhai vs. SEBI (Appeal no. 93 of 2014), order dated December 19, 2014, Hon'ble SAT has observed that: *"....and since further it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal…”.*

7. I note that Noticees have been given sufficient opportunities and therefore, the principles of natural justice have been duly complied with, and I now proceed to consider the matter on merits on the basis of the material available on record.

## C. CONSIDERATION OF ISSUES AND FINDINGS

8. In order to evaluate the charges made against the Noticees on merit, it is relevant to first refer to the provisions of SEBI Act, Companies Act, 1956, Debenture and ILDS Regulations. The relevant extracts of these provisions are as under:

***<u>SEBI Act</u>***

***Registration of stock brokers, sub-brokers, share transfer agents, etc.***

*12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market 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:*

***DT Regulations***

***Application for grant of certificate of registration***

*3. (1) An application by a debenture trustee for grant of certificate of registration shall be made to the Board in Form A.*

***Eligibility for being debenture trustee***

*7. No person shall be entitled to act as a debenture trustee unless it is: —*

*(a) a scheduled bank carrying on commercial activity; or*

*(b) a public financial institution within the meaning of section 4A of the Companies Act, 1956; or*

*(c) an insurance company; or*

*(d) body corporate.*

***Grant of certificate of registration***

*8. (1) The Board on being satisfied that the applicant is eligible, shall send an intimation to the applicant, within one month of such satisfaction, that is has been found eligible for grant of certificate of registration and grant a certificate in Form B.*

***Debenture Trustee not to act for an associate.***

*13A. A person shall not be appointed as a debenture trustee, in case-*

*(a)the debenture trustee, -*

*(i)is an associate of the body corporate;*

***ILDS Regulations***

***General Conditions***

*4. …..*

*(4) The issuer shall appoint one or more debenture trustees in accordance with the provisions of Section 117B of the Companies Act, 1956 (1 of 1956) and Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993.*

***Debenture Redemption Reserve***

*16. (1) For the redemption of the debt securities issued by a company, the issuer shall create debenture redemption reserve in accordance with the provisions of the Companies Act, 1956 and circulars issued by Central Government in this regard.*

***<u>Companies Act, 1956</u>***

***117B. Appointment of Debenture Trustees and Duties of Debenture Trustees***

*(1) No company shall issue a prospectus or a letter of offer to the public for subscription of its debentures, unless the company has, before such issue, appointed one or more debenture trustees for such debentures and the company has, on the face of the prospectus or the letter of offer, stated that the debenture trustee or trustees have given their consent to the company to be so appointed:*

*Provided that no person shall be appointed as a debenture trustee, if he –*

*(a) beneficially holds shares in the company;*

*(b) is beneficially entitled to moneys which are to be paid by the company to the debenture trustee;*

*(c) has entered into any guarantee in respect of principal debts secured by the debentures or interest thereon.*

***117C. Liability of Company to Create Security and Debenture Redemption Reserve***

*(1) Where a company issues debentures after the commencement of this Act, 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.*

*(2) The amounts credited to the debenture redemption reserve shall not be utilised by the company except for the purpose aforesaid.*

*(3) The company referred to in sub-section (1) shall pay interest and redeem the debentures in accordance with the terms and conditions of their issue.*

*(4) Where a company fails to redeem the debentures on the date of maturity, the Tribunal may, on the application of any or all the holders of debentures shall, after hearing the parties concerned, direct, by order, the company to redeem the debentures forthwith by the payment of principal and interest due thereon.*

*(5) If default is made in complying with the order of the Tribunal under sub-section (4), every officer of the company who is in default, shall be punishable with imprisonment which may extend to three years and shall also be liable to a fine of not less than five hundred rupees for every day during which such default continues.*

9. I have considered the SCN and other material available on record. The Final Order dated March 27, 2015 has held that the issuance of NCDs by RRCHL was a deemed public issue and that Company failed to comply with sections 56, 60, 69 and 73 of the Companies Act, 1956 in respect of its money mobilization through the issuance of NCDs. The said order was not challenged in appeal (as per material available on record) and has therefore attained finality.

10. The SCN has alleged that the debenture trustee was an individual i.e., Birendra Kaji and that he acted without registration from SEBI under Section 12(1) of the SEBI Act. I have perused the copy of the Debenture Trust Deed dated July 24, 2012 enclosed with Form – 10 and I have noted that Mr. Birendra Kaji was recorded under the head "Trustee". Therefore, I find that RRCHL had appointed Mr. Birendra Kaji as the debenture trustee. To perform the functions or act as a debenture trustee, SEBI has, under section 12(1) of the SEBI Act, mandated that a trustee (in respect of debentures) who is associated with the securities market shall buy, sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from SEBI in accordance with the regulation made under the SEBI Act. The DT Regulations made under the SEBI Act prescribe

the conditions, responsibilities and obligations of a debenture trustee. Regulation 7 of the DT Regulations stipulates that only (i) a scheduled bank carrying on commercial activity or (ii) a public financial institution within the meaning of section 4A of Companies Act, 1956 or (iii) an insurance company or (iv) body corporate shall be entitled to act as a debenture trustee. In this regard, I note that Mr. Birendra Kaji is neither registered with SEBI to perform the functions of a "debenture trustee" as required under section 12(1) of the SEBI Act nor does he satisfy the eligibility criteria specified under Regulation 7 of DT Regulations. Therefore, I find that Mr. Birendra Kaji has violated Section 12(1) of the SEBI Act and did not qualify under DT Regulations nor did he obtain a registration.

11. Regulation 4(4) of ILDS Regulations stipulates that the issuer of debentures shall appoint one or more debenture trustees in accordance with the provisions of section 117B of Companies Act, 1956 and DT Regulations. Section 117B of the Companies Act, 1956, prescribes that no company shall issue a prospectus or a letter of offer to the public for subscription of its debentures, unless it has, before such issue, appointed one or more debenture trustees for such debentures and the company has, on the face of the prospectus or the letter of offer, stated that the 'debenture trustee' or trustees have given their consent to the company to be so appointed. In the instant case, RRCHL had appointed Mr. Birendra Kaji as the debenture trustee who does not have a certificate of registration as a debenture trustee. Therefore, I find that appointment of Mr. Birendra Kaji as the debenture trustee by RRCHL is in violation of regulation 4(4) of ILDS Regulations read with section 117B of the Companies Act, 1956. Further, Regulation 13A(a) of the DT Regulations states that the debenture trustee cannot be an associate of the body corporate of the issuer. In accordance with the said regulation, Mr. Birendra Kaji is not eligible to be a debenture trustee as he is also a Director of RRCHL. Consequently, I find that RRCHL has violated regulation 13A(a) of the DT Regulations.

12. As the NCDs are 'debt securities' in terms of the ILDS Regulations, the Company was also mandated to comply with the provisions of the ILDS Regulations in

respect of its public issue of NCDs. Regulation 16 of ILDS Regulations also requires companies to create a debenture redemption reserve in public issue. Section 117C of the Companies Act, 1956, stipulates that, 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. There is no record to suggest that such debenture redemption reserve was created. Therefore, I find that RRCHL has not complied with regulation 16 of ILDS Regulations read with section 117C of the Companies Act, 1956.

13. I note that there has been a delay in initiation of instant proceedings against the Noticees. This needs to be taken into account while passing directions under section 11 and 11B of the SEBI Act, 1992.

14. I also note that the Noticees failed to refund the money collected, as directed in the Final Order and the consequent recovery proceedings initiated against the Noticees are pending. Further, the Final Order restrained the Noticees from the securities market for a period of 4 years from the date of completion of refund to investors and the said restraint is ongoing.

**D. ORDER:**

15. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11 (1), 11(4) and 11B read with Section 19 of the SEBI Act hereby issue the following directions:

    15.1. The Noticees are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in the securities, directly or indirectly, for a period of 1 year.

    15.2. Noticee no. 2 is hereby restrained from associating, directly or indirectly, in any capacity with any listed public company or any public company that intends to raise money from the public, or any intermediary registered with SEBI, for a period of 1 year.

15.3. The period of restraint/ prohibition directed above shall commence upon completion of period of restraint referred to in paragraph 14 above i.e., in all, for a period of 5 years after completion of refund.

16. This Order shall come into force with immediate effect.

17. A copy of this Order shall be served upon the *Noticees*, all the recognised Stock Exchanges and Depositories for ensuring compliance with the above directions.

-Sd-

**ANANTH NARAYAN G.**

**DATE: JULY 19, 2024** **WHOLE TIME MEMBER**

**PLACE: MUMBAI** **SECURITIES AND EXCHANGE BOARD OF INDIA**