

United Spirits Limited
Registered Office:
UB Tower
#24 Vittal Mallya Road
Bengaluru 560 001

Tel +91 80 3985 6500
+91 80 2221 0705
Fax +91 80 3985 6862
www.unitedspirits.in

January 27, 2017

National Stock Exchange of India Limited
Exchange Plaza, C-1, Block G
Bandra Kurla Complex
Bandra (E), Mumbai- 400051
Scrip Code: MCDOWELL-N

Sir/Madam,

Sub: Clarification on news item 'Sebi bans Mallya, 6 others in USL fund diversion case'.

With reference to your clarification sought from the Company on January 27, 2017 on the above subject, we wish to clarify that SEBI has issued an Ad Interim Ex-Parte Order (copy enclosed) asking the Company to respond to SEBI in the matter within 21 days of the receipt of the Order. The Company is studying the order and will submit the responses to SEBI by the due date.

Hope the above clarification meets with your requirements.

Yours faithfully,
FOR UNITED SPIRITS LIMITED



V. Ramachandran
Company Secretary

Enclosed : SEBI Order

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: S. RAMAN, WHOLE TIME MEMBER

ORDER

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

IN THE MATTER OF FUND DIVERSIONS AND/OR IMPROPER TRANSACTIONS IN UNITED SPIRITS LIMITED –

IN RESPECT OF –

1. DR. VIJAY MALLYA [PAN: AENPM6247A]
2. SHRI ASHOK CAPOOR [PAN: AAKPC0254G].
3. SHRI SOWMIYANARAYANAN [PAN: AJAPS4294F].
4. SHRI S. N. PRASAD [PAN: ADWPP7032J].
5. SHRI P. A. MURALI [PAN: ADBPM6778K].
6. SHRI PARAMJIT SINGH GILL [PAN: ANJPG8261F].
7. SHRI AINAPUR S. R. [PAN: ACSPA7910M].

Background –

- 1.1 United Spirits Limited (“**USL**”) is a company incorporated under the Companies Act, 1956, on March 31, 1999, as ‘*McDowell Spirits Limited*’. Subsequently, its name was changed to ‘*McDowell & Company Limited*’ and eventually changed to ‘*United Spirits Limited*’ on October 17, 2006. The Registered Office of USL is at UB Tower, 24 Vittal Mallya Road, Bangalore–560001. The shares of USL are listed on **BSE** and the National Stock Exchange of India Limited (“**NSE**”).
- 1.2 As per information obtained by SEBI from BSE and NSE, the details pertaining to the Board of Directors of USL for the period from April 1, 2010 to March 31, 2015, is as under –

TABLE I – BOARD OF DIRECTORS OF USL DURING THE PERIOD FROM APRIL 1, 2010– MARCH 31, 2011

SR. NO.	NAME	STATUS	DATE OF APPOINTMENT
1.	DR. VIJAY MALLYA	NON-INDEPENDENT NON-EXECUTIVE CHAIRMAN	27.04.2000
2.	MR. S. GUPTA	NON-INDEPENDENT NON-EXECUTIVE VICE CHAIRMAN	3.04.2001
3.	MR. ASHOK HARIKISHANLAL CAPOOR	NON-INDEPENDENT MANAGING DIRECTOR	29.04.2011
4.	V. K. REKHI	NON-INDEPENDENT MANAGING DIRECTOR	19.04.2001
5.	MR. M. IYENGAR	NON-EXECUTIVE DIRECTOR	19.04.2001
6.	MR. B. LABROO	NON-EXECUTIVE DIRECTOR	19.04.2001
7.	SREEDHARA MENON	NON-EXECUTIVE DIRECTOR	14.07.2006
8.	MR. SUDHINDAR KHANNA	NON-EXECUTIVE DIRECTOR	1.06.2007

TABLE II – BOARD OF DIRECTORS OF USL DURING THE PERIOD FROM APRIL 1, 2011– MARCH 31, 2012

SR. NO.	NAME	STATUS	DATE OF APPOINTMENT
1.	DR. VIJAY MALLYA	NON-INDEPENDENT NON-EXECUTIVE CHAIRMAN	27.04.2000
2.	MR. S. GUPTA	NON-INDEPENDENT NON-EXECUTIVE VICE CHAIRMAN	3.04.2001
3.	MR. ASHOK HARIKISHANLAL CAPOOR	NON-INDEPENDENT MANAGING DIRECTOR	29.04.2011
4.	V. K. REKHI	NON-INDEPENDENT MANAGING DIRECTOR	29.04.2011 (Resignation)
5.	MR. M. IYENGAR	NON-EXECUTIVE DIRECTOR	19.04.2001
6.	MR. B. LABROO	NON-EXECUTIVE DIRECTOR	19.04.2001
7.	SREEDHARA MENON	NON-EXECUTIVE DIRECTOR	14.07.2006
8.	MR. SUDHINDAR KHANNA	NON-EXECUTIVE DIRECTOR	1.06.2007
9.	MR. GHYANENDRA NATH BAJPAI	NON-EXECUTIVE DIRECTOR	20.01.2012

TABLE III – BOARD OF DIRECTORS OF USL DURING THE PERIOD FROM APRIL 1, 2012– MARCH 31, 2013

SR. NO.	NAME	STATUS	DATE OF APPOINTMENT
1.	DR. VIJAY MALLYA	NON-INDEPENDENT NON-EXECUTIVE CHAIRMAN	27.04.2000
2.	MR. S. GUPTA	NON-INDEPENDENT NON-EXECUTIVE VICE CHAIRMAN	4.07.2013 (Resignation)
3.	MR. ASHOK HARIKISHANLAL CAPOOR	NON-INDEPENDENT MANAGING DIRECTOR	29.04.2011
4.	MR. M. IYENGAR	NON-EXECUTIVE DIRECTOR	4.07.2013 (Resignation)
5.	MR. B. LABROO	NON-EXECUTIVE DIRECTOR	4.07.2013 (Resignation)
6.	SREEDHARA MENON	NON-EXECUTIVE DIRECTOR	4.07.2013 (Resignation)
7.	MR. SUDHINDAR KHANNA	NON-EXECUTIVE DIRECTOR	4.07.2013 (Resignation)
8.	MR. GHYANENDRA NATH BAJPAI	NON-EXECUTIVE DIRECTOR	20.01.2012

TABLE IV – BOARD OF DIRECTORS OF USL DURING THE PERIOD FROM APRIL 1, 2013– MARCH 31, 2014

SR. NO.	NAME	STATUS	DATE OF APPOINTMENT
1.	DR. VIJAY MALLYA	NON-INDEPENDENT NON-EXECUTIVE CHAIRMAN	27.04.2000
2.	MR. D. SIVANANDHAN	NON-EXECUTIVE DIRECTOR	4.07.2013
3.	MR. ASHOK HARIKISHANLAL CAPOOR	NON-INDEPENDENT MANAGING DIRECTOR	1.05.2014 (Resignation)
4.	MR. GHYANENDRA NATH BAJPAI	NON-EXECUTIVE DIRECTOR	20.01.2012 / 30.09.2014 (Resignation)
5.	MR. VIKRAM SINGH MEHTA	NON-EXECUTIVE DIRECTOR	19.08.2013 / 30.09.2014 (Resignation)
6.	MR. SUDHAKAR RAO	NON-EXECUTIVE DIRECTOR	4.07.2013
7.	MR. MURALI ANANTHASUBRAMANIAN PATHAI	EXECUTIVE DIRECTOR	4.07.2013 / 22.04.2015 (Resignation)
8.	MR. RAVI RAJAGOPAL	NON-EXECUTIVE DIRECTOR	4.07.2013
9.	MR. GILBERT GHOSTINE	NON-EXECUTIVE DIRECTOR	31.07.2013 / 30.09.2014 (Resignation)
10.	MR. PAUL STEVEN WALSH	NON-EXECUTIVE DIRECTOR	19.08.2013 / 20.10.2014 (Resignation)
11.	MR. ARUN KUMAR GANDHI	NON-EXECUTIVE DIRECTOR	4.07.2013/ 30.09.2014 (Resignation)
12.	RENU KARNAD	NON-EXECUTIVE DIRECTOR	4.07.2013/ 25.02.2014 (Resignation)
13.	INDU SAHANI	NON-EXECUTIVE DIRECTOR	14.08.2014

TABLE V – BOARD OF DIRECTORS OF USL FOR THE FINANCIAL YEAR 2014–15

SR. NO.	NAME	STATUS	DATE OF APPOINTMENT
1.	DR. VIJAY MALLYA	NON-INDEPENDENT NON-EXECUTIVE CHAIRMAN	27.04.2000
2.	MR. D. SIVANANDHAN	NON-EXECUTIVE DIRECTOR	4.07.2013
3.	MR. SUDHAKAR RAO	NON-EXECUTIVE DIRECTOR	4.07.2013
4.	MR. RAVI RAJAGOPAL	NON-INDEPENDENT NON-EXECUTIVE DIRECTOR	4.07.2013
5.	INDU SAHANI	NON-EXECUTIVE DIRECTOR	14.08.2014
6.	MR. NICHOLAS BLAZQUEZ	NON-INDEPENDENT EXECUTIVE VICE CHAIRMAN	20.10.2014
7.	MR. ANAND KRIPALU	MANAGING DIRECTOR AND CEO	14.08.2014
8.	MR. RAJEEV GUPTA	NON-EXECUTIVE DIRECTOR	23.12.2014
9.	MR. MAHENDRA SHARMA	NON-EXECUTIVE DIRECTOR	1.04.2015

- 1.3 On July 4, 2013, Relay B. V. [wholly owned subsidiary of Diageo Plc (“**Diageo**”), a public limited company incorporated in England & Wales] alongwith *persons acting in concert*, viz. Diageo; Diageo Finance Plc; Diageo Capital Plc and Tanqueray Gordan and Company Limited, acquired 25.02% equity shares of USL.
- 1.4 During the period from November 28, 2013 to February 4, 2014, Relay B. V. acquired 3.76% equity shares of USL through open market transactions resulting in an increase of its holding from 25.02% to 28.78%. Disclosure in this regard was made to stock exchanges under Regulation 29(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (“**Takeover Regulations, 2011**”) on February 4, 2014. Subsequently, in April 2014, Relay B. V. made a voluntary open offer under the Takeover Regulations, 2011, for acquisition of 26% equity shares of USL from the public shareholders. Post the aforesaid offer, Relay B. V.’s shareholding in USL increased to 54.78%.
- 1.5 As on December 31, 2015, the shareholding pattern in USL as obtained from the BSE website, is as under –

SHAREHOLDING IN USL	
CATEGORY	NO. OF SHARES AND %
A. PROMOTER AND PROMOTER GROUP	85,411,679 [58.77%]
B. PUBLIC SHAREHOLDING MUTUAL FUNDS/FINANCIAL INSTITUTIONS/BANKS/CENTRAL GOVERNMENT(S)/QUALIFIED FOREIGN INVESTOR/INDIVIDUAL SHAREHOLDERS	5,99,16,064 [41.23%]
C. GRAND TOTAL (A + B)	14,53,27,743 [100%]

- 1.6 The details of the Promoter and Promoter Group shareholding in USL as obtained from the BSE website i.e. 58.77%, is as under –

PROMOTER AND PROMOTER GROUP SHAREHOLDING IN USL	
NAME	NO. OF SHARES AND %
1. RELAY B V	79,612,346 [54.78%]
2. VIJAY MALLYA	12,510 [0.01%]
3. DEVI INVESTMENTS PRIVATE LIMITED	2,700 [0.00%]
4. MALLYA PRIVATE LIMITED	1,005 [0.00%]
5. ROSSI AND ASSOCIATES PRIVATE LIMITED	35,112 [0.02%]
6. UNITED BREWERIES HOLDINGS LIMITED	4,208,556 [2.90%]
7. KINGFISHER FINVEST INDIA LIMITED	1,508,180 [1.04%]
8. VITTAL INVESTMENTS PRIVATE LIMITED	31,270 [0.02%]
TOTAL	85,411,679 [58.77%]

- 1.7 During the intervening period, in the Audit Report for the Financial Year 2013–14, BSR & Co. LLP (Statutory Auditor of USL) (“**BSR & Co. LLP Report**”) qualified certain transactions by USL, which are detailed below –

“The company created provisions of ₹649.55 Crores as reported in the Annual Report for Financial Year 2013–14, giving the following explanation for the provisioning in its notes to accounts:

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

- 1.8 Pursuant to the aforementioned, USL appointed Pricewaterhouse Coopers, United Kingdom (“**PWC-UK**”) to examine such transactions. PWC-UK submitted its Report (“**PWC-UK Report /Initial Inquiry /Initial Inquiry**”)

Report") on March 24, 2015, which indicated diversion of funds from USL at the behest of Dr. Vijay Mallya (**"Mallya"**). As per the PWC–UK Report, a further provision of ₹21.6 Crore was made in the Financial Year 2014–15 and the explanation given in the notes to accounts of the Annual Report (Financial Year 2014–15) was as follows:

*"The (Initial) Inquiry Report stated that between 2010 and 2013, funds involved in many of these transactions were diverted from the Company and/or its subsidiaries to certain UB Group companies, including in particular, Kingfisher Airlines Limited (**"KFA"**). The diverted amounts were included in the provision made by the Company in the financial statements for the previous financial year. The Inquiry also indicated that the manner in which certain transactions were conducted, prima facie, indicates various improprieties and potential violations of provisions, inter alia, of the Companies Act, 1956, and the Listing Agreement signed by the Company with various stock exchanges in India on which its securities are listed. The financial impact of these non-compliances on the Company were estimated by Management to be not material.*

During the year ended 31 March 2015, an additional provision of ₹216.0 Million (i.e. ₹21.6 Crores) was made for interest claimed. The Management has determined that in light of these provisions, no additional material adjustments to the financial statements are required on this account.

In connection with the recovery of the funds that were diverted from the Company and/or its subsidiaries, pursuant to the decision of the Board at its meeting held on 25 April 2015, the Company is in the process of initiating steps for recovery against the relevant parties, so as to seek to expeditiously recover the Company's dues from such parties, to the extent possible."

- 1.9 Upon a consideration of the aforesaid PWC–UK Report, the Board of USL on April 25, 2015, called upon Mallya to voluntarily resign from the said Board and to step down from his position in the subsidiaries of USL. However, Mallya refused to step down from the Board of USL.
- 1.10 In this regard, it is noted that during the Financial Years 2009–10 to 2015–16, the Auditors of USL were as under –

FINANCIAL YEAR	STATUTORY AUDITOR
2009–10	Price Waterhouse, Bangalore
2010–11	Price Waterhouse, Bangalore
2011–12	Walker, Chandiok & Co.
2012–13	Walker, Chandiok & Co.
2013–14	BSR & Co. LLP
2014–15	BSR & Co. LLP
2015–16	BSR & Co. LLP

- 1.11 On February 25, 2016, Diageo entered into a Settlement Agreement (**"Settlement Agreement"**) with Mallya wherein it agreed to pay USD 75 million as settlement amount to him. In furtherance of such Agreement, Mallya resigned from his position as Chairman and Non–Executive Director of USL. On the same date, USL and

Mallya entered into an agreement wherein they agreed to a mutual release in relation to matters arising out of the Initial Inquiry by USL.

1.12 Securities and Exchange Board of India (“SEBI”) took cognizance of the public announcement made by USL to BSE on February 26, 2016, regarding ‘*Resignation of Director and Chairman—Dr. Vijay Mallya*’. Thereafter, vide letter dated March 9, 2016, SEBI sought the following information from USL in relation to the examination conducted in the matter of disclosure of financial and other information by USL –

- a. The Agreement entered by USL with Mallya included a provision whereby USL allowed Mallya or a party nominated by him to acquire upto 13 residential properties from USL at a fair market value with a 10% discount applying to the valuation of 3 of the properties in Mumbai, Goa and New Delhi. In this context, USL was advised to provide the following –
 - i. *Explanation as to how USL has ensued compliance with Regulation 23 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“Listing Regulations”), before entering into the Agreement containing the aforementioned provisions.*
 - ii. *Copy of the comments/Report of the Audit Committee of USL in respect of the above.*
- b. The announcement *inter alia* also stated that USL and Mallya agreed to a mutual release in relation to matters arising out of the Initial Inquiry by USL into certain matters referred to in the financial statements for the Financial Year 2013–2014. On perusal of the Annual Report for the Financial Year 2014–2015, it was observed that the internal inquiry initiated by USL revealed various improprieties and legal violations which *inter alia* include the following –
 - *The manner in which certain transactions were conducted between 2010 and 2013 resulted in diversions of funds from USL and/or its subsidiaries to certain UB Group companies and in particular KFA.*
 - *An Agreement was signed with an Alleged Claimant for a lien on certain investments of USL to secure an advance by the Alleged Claimant to KFA, was entered into without appropriate Board authorization or approval.*
 - *The findings of the inquiry coupled with the management’s assessment of recoverability, an aggregate provisions of ₹6495.5 million (including interest claimed) was made for bad debts during the Financial Year 2013–2014 and an additional provision of ₹216 million was made for interest claimed during the Financial Year 2014–2015.*
 - *Potential violations of provisions of the Companies Act, Equity Listing Agreement, etc.*
 - *Certain transactions undertaken between 2010 and July 2013 and certain accounting entries made in that regard has resulted into showing a lower exposure of USL to United Breweries (Holdings) Limited (“UBHL”) than that which actually existed at that time.*

Further, from the Annual Report for the Financial Year 2014–2015, it was observed that USL provided a copy of the Inquiry Report of its internal inquiry to its Statutory Auditors for their review, following

which, the Audit Committee of USL received a Report under Section 143(12) of the Companies Act, 2013, from the Statutory Auditors. Since the issues related to Corporate Governance Standards followed by USL, it was advised to provide the following information –

- i. *Comments/Report of the Audit Committee as well as the Board of Directors on each findings of the Inquiry Report;*
- ii. *Comments/Report of the Audit Committee as well as the Board of Directors on each issue raised in the Report received from the Statutory Auditors under Section 143(12) of the Companies Act, 2013;*
- iii. *Steps taken by the Board of USL in detail on the adverse findings emanating from the aforementioned Reports.*
- iv. *Role of Independent Directors in protecting the interest of shareholders and whether they had separate meeting(s) to discuss all the aforementioned issues.*

c. Further, as per media reports, PWC–UK raised serious charges of lack of Corporate Governance and fund diversion. Mallya is stated to have said that the accounts were certified by the Indian entity of Pricewaterhouse Coopers. USL’s comments were sought on (a) Factual position of the aforementioned statement; (b) Role of Auditors who certified the financial statements; (c) Views of the Audit Committee; (d) Views of the Board of Directors of USL.

d. USL’s views and comments were sought on the USD 75 million deal entered between Diageo and Mallya under which he resigned from his position as Chairman and Non–Executive Director of USL.

1.13 Vide letter dated March 21, 2016, USL requested SEBI to grant an extension of time till March 25, 2016, to submit its reply to the information sought vide SEBI letter dated March 9, 2016. The aforesaid request was acceded to vide SEBI letter dated March 21, 2016.

1.14 Vide letter dated March 28, 2016, USL *inter alia* replied as under –

- i. ***Explanation as to how USL has ensued compliance with Regulation 23 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“Listing Regulations”), before entering into the Agreement containing the aforementioned provisions.***

“As regards the Overall Settlement Package –

As mentioned in the Stock Exchange announcement made by USL on February 25, 2016, the Settlement with Mallya (a) brought to an end the significant complexities and challenges relating to the Company’s governance that had affected the Company from April 2015 onwards; (b) removed the liability and litigation risk relating to certain historical contracts entered into by the Company in 2013 which were voted down by the Company’s shareholders in November 2014 (including certain high value sponsorship

agreements and a call agreement affecting certain residential properties) and (c) put in place a five year non-compete, non-interference and standstill arrangement with Mallya. ...

It is confirmed that USL has ensured full compliance with Regulation 23 of the Listing Regulations prior to entering into the said Settlement with Mallya on February 25, 2016. This compliance is explained below:

At its meeting on February 22, 2016, the Audit Committee of the Board of Directors of USL considered these aspects in detail and thereafter approved and recommended the comprehensive Settlement proposal (including the property option referred to above) to the Board of Directors of USL.

... It may also be added that the above settlement was contingent upon Mallya resigning from the Board of USL and as such, technically, the settlement would have taken effect when the contracting party was no longer a related party. Even so, the settlement arrangements were dealt with on the basis that they were related party transactions and Regulation 23 of the Listing Regulations was still complied with so as to ensure compliance with not just the letter but also the spirit of the Regulations.”

ii. Copy of the comments/Report of the Audit Committee of USL in respect of the above.

USL submitted a copy of the extract of the minutes of the meeting of the Audit Committee on February 22, 2016, together with a briefing note prepared by the management of USL, which was circulated to all members of the Audit Committee prior to the meeting.

iii. Comments/Report of the Audit Committee as well as the Board of Directors on each findings of the Inquiry Report.

“The Audit Committee met and considered the Initial Inquiry Report on April 24, 2015 and the Board met and considered the Initial Inquiry Report the next day i.e. April 25, 2015.”

USL submitted a copy of the extract of the minutes of the aforesaid Audit Committee meeting and the Board meeting which contained the deliberations and comments on each of the findings in the Initial Inquiry Report.

iv. Comments/Report of the Audit Committee as well as the Board of Directors on each issue raised in the Report received from the Statutory Auditors under Section 143(12) of the Companies Act, 2013.

“As mentioned in the stock exchange announcement made by USL on April 25, 2015, pursuant to the Board’s directions, a copy of the Initial Inquiry Report was provided by USL to its Statutory Auditors. Subsequently, USL’s Statutory Auditors sought the Audit Committee’s reply and observations on the Auditor’s Report dated May 13, 2015, under Section 143(12) of the Companies Act, 2013.”

USL submitted the reply of the Audit Committee to the Auditor’s Report under Section 143(12) of the Companies Act, 2013.

v. Steps taken by the Board of USL in detail on the adverse findings emanating from the aforementioned Reports.

“A. Sharing Initial Inquiry Report with Regulatory Authorities and Inquiry into Additional Matters.

Immediately upon reviewing the Initial Inquiry Report, the Audit Committee recommended and the Board directed that the Company report the transactions to the authorities as required under applicable law and share a copy of the Initial Inquiry Report with the Company’s Auditors. Accordingly, USL reported the transactions to the Bangalore police and shared copies of the Initial Inquiry Report with the Ministry of Corporate Affairs and the Company’s Auditors. Copy of the Initial Inquiry Report were also shared with the Serious Fraud Investigation Office, the Income Tax Department and the Institute of Chartered Accountants of India. The Audit Committee and Board therefore, discharged their reporting obligations by causing the Initial Inquiry Report to be submitted to these various authorities. ... For reasons explained in ... including inability to access relevant third party documents, the Board found it was not itself in a position to make any final determinations with regard to the roles of any individuals involved...

B. Recovery of Funds diverted through third parties

In connection with the recovery of the Company’s funds referred to in the Initial Inquiry, the Board directed the Company to take necessary steps to pursue all claims and expeditiously recover dues from relevant parties to the extent possible. Accordingly, USL initiated steps for recovery against the relevant parties.

During the quarter ended September 30, 2015, USL reached a settlement with one of the parties, pursuant to which the party withdrew claims aggregating ₹27.86 Crores. ... In the preceding periods, USL also recovered a sum of ₹3 Crores from one of the counter parties named in the Initial Inquiry...

C. Recovery of Loan to UBHL.

With regard to the prior transactions that were consolidated into the single loan to UBHL on July 3, 2013, the Initial Inquiry Report stated that prima facie between 2010 and July 2013, certain transactions appear to have been undertaken and certain accounting entries appear to have been made to show a lower exposure of USL (and its subsidiaries) to UBHL than the exposure that actually existed at that time. Prima facie this indicated various improprieties and potential violations of provisions inter alia of the Companies Act and the Listing Agreement signed by USL with various stock exchanges in India on which its securities are listed. The financial impact of these non – compliances on USL was estimated by management of USL to be not material. ...

In January 2015, UBHL defaulted in payment of interest to USL. USL received letters from UBHL stating that it was involved in litigations with various creditors of KFA in different courts all over the country and that some of the winding up petitions filed against UBHL had been admitted by the High Court of Karnataka and due to Court orders passed in these winding up proceedings, UBHL was unable to pay interest without leave of the Court which it proposed to seek. As a result of the above, USL agreed to give

some time to UBHL but prudently made provisions for the entire principal amount of this unsecured loan and reversed all unpaid interest income in its financial statements. ...

The settlement reached with Dr. Mallya does not affect, waive or release UBHL from its liability to USL in any manner, whether under the aforementioned loan agreement or otherwise and USL's attempts to recover these sums from UBHL will continue.

D. Internal Controls and Corporate Governance.

In respect of the other employees of the Company who appear to have been involved in certain transactions covered by the Initial Inquiry, the Board directed the Company's Managing Director and Chief Executive Officer to initiate necessary internal proceedings. These internal proceedings have been completed and appropriate internal actions have been taken. ...

E. Recommendations and Actions concerning Dr. Mallya.

At the meeting on April 25, 2015, the Audit Committee was of the view that it did not have any adjudicatory or investigative powers on the matters raised by the Initial Inquiry Report. However, the Company's Directors found that the contents of the Initial Inquiry Report were adequate for the Directors to lose confidence in Dr. Mallya continuing in his role as a Director and as Chairman. All the other Directors of USL therefore called upon Dr. Mallya to resign from his positions as Director and Chairman of USL and to also resign from the Boards of USL's subsidiary companies. The Board also resolved they would recommend Dr. Mallya's removal to USL's shareholders, in the event Dr. Mallya declined to step down.

The Board requested Dr. Mallya's parent entity, Diageo – which had previously stated that it had contractual obligations to support Dr. Mallya continuing as a Director, to review its contractual position in light of the Initial Inquiry Report and findings (which were also shared with Diageo). Dr. Mallya also sent legal notices to USL regarding the Initial Inquiry Report and USL also received legal notices from counter parties to some of the historical notices seeking USL's performance under these historical agreements.

On February 25, 2016, USL reached a settlement with Dr. Mallya pursuant to which Dr. Mallya agreed to step down from all his positions in USL and its subsidiaries without USL having to pay any amounts to Dr. Mallya. Diageo also reached a settlement with Dr. Mallya on February 25, 2016 ...

USL agreed to release Dr. Mallya from its civil/commercial claims against him in connection with this Initial Inquiry and undertook not to pursue identified third parties for the amounts referred to in the Initial Inquiry. It is to be noted that this release does not cover any regulatory or criminal matters, any claims connected with UBHL loan or matters connected with the on – going Further Review.

- vi. ***Role of Independent Directors in protecting the interest of shareholders and whether they had separate meeting(s) to discuss all the aforementioned issues.***

... As part of the Audit Committee and the Board, the Independent Directors of USL had reviewed, considered and discussed the Initial Inquiry Report and advocated various measures to be taken by USL management to address the adverse findings of the Initial Inquiry Report. Prior to the Board's consideration of the Initial Inquiry Report, one-on-one meetings were held by the Managing Director & Chief Executive Officer and the General Counsel with each of the Independent Directors to answer queries raised by the Independent Directors after the Initial Inquiry Report had been reviewed by each of the Independent Directors. These one-on-one meetings were held on March 30, March 31 and April 8, 2015. Thereafter, as mentioned above, the Audit Committee met on April 24, 2015 to consider the Initial Inquiry Report. Since all of the Independent Directors had reviewed the Report independently and had one-on-one meetings to address their clarifications and concerns, and since all five independent Directors were on the Audit Committee, a separate meeting of the Independent Directors was not considered necessary in these circumstances.

- vii. ***As per media reports, PWC–UK raised serious charges of lack of Corporate Governance and fund diversion. Mallya stated that the accounts were certified by the Indian entity of Pricewaterhouse Coopers. USL's comments on (a) Factual position of the aforementioned statement; (b) Role of Auditors who certified the financial statements; (c) Views of the Audit Committee; (d) Views of the Board of Directors of USL.***

The very nature of the findings in the Initial Inquiry Report indicate that these cannot be findings of a party which had any interest in the conclusions to be drawn from the Initial Inquiry. Further, the entity which performed USL's audit during the financial years ended March 31, 2010 and 2011 was Price Waterhouse, Chartered Accountants, Bangalore. On the other hand, the entity which was engaged to assist with USL's Initial Inquiry was PricewaterhouseCoopers LLP, which is a limited liability partnership registered in England. As in other big accounting firms, the forensic function and the audit function within the PWC group are entirely separate and there are rigid firewalls in place to maintain such separation. So the entity that performed USL's audit for 2009-10 and 2010-11 was and is entirely separate from the entity that conducted the forensic processes as a part of USL's Initial Inquiry. Given the separation between these functions and entities, the Company does not believe that there is any conflict of interest as alleged by Dr. Mallya. The foregoing issues were discussed by the Board and the Audit Committee at its meeting on April 24 and April 25, 2015 and the views of the Audit Committee and Board are reflected in the minutes of their respective meetings.

With regard to the role of the past Auditors, the auditors who have certified the financial statements in prior years have engaged with USL following the Board's disclosure of the findings of the Initial Inquiry and the Company has consulted with such past Auditors in accordance with applicable requirements.

Also, as mentioned above, USL has shared a copy of the Initial Inquiry Report with the Institute of Chartered Accountants of India.

viii. USL's views and comments were sought on the USD 75 million deal entered between Diageo and Mallya under which he resigned from his position as Chairman and Non-Executive Director of USL.

To the extent the Settlement Agreement reached between Diageo and Dr. Mallya facilitated Dr. Mallya's resignation from the Board of USL, the agreement has helped realise the USL's Board request of April 25, 2015, that Dr. Mallya step down from these positions. As such, USL welcomes this outcome.

USL also sees value in the other benefits that are reported to be secured by the agreement with Diageo including the non-compete, non-interference, non-solicitation and standstill undertakings.

As regards the reported USD 75 million deal between Diageo and Dr. Mallya, USL further wishes to clarify that USL and its subsidiaries are not a party to this transactions and are not making any payments whatsoever to Dr. Mallya or his affiliates or relatives in this regard or as part of the settlement.

1.15 Subsequently, after consideration of the abovementioned reply submitted by USL, SEBI vide letter dated May 11, 2016, sought the following information –

- a. The Statutory Auditors in their Report, dated May 13, 2015, on the Internal Inquiry Report *inter alia* mentioned that “the financial statements of earlier years may be incorrectly stated as a result of the issues highlighted in the qualifications and the same can be established only through detailed inquiry.”

In this context, USL was advised to provide the following –

- i. *Specific details of mis-statement which inter alia included impact of the same on relevant financial items of each of the earlier years, remedial measures taken for correcting the same and current status of the further inquiry being undertaken by the company.*
- b. The Statutory Auditors in their Report, dated May 13, 2015, on the Internal Inquiry Report *inter alia* mentioned that:
- *“Dr. Mallya exerted pressure on USL employees to arrange funds to KFA in spite of being aware the support was adversely affecting USL's finances and operations;*
 - *Funds appear to have been fraudulently taken out of the company between 2010 and 2013. The transactions resulted into violation of various provisions of Companies Act and Listing Agreement;*
 - *Named certain key management personnel (KMP) and employees who had knowledge of the fund diversions and participated in some of the transactions covered by the inquiry.”*

In this connection, from the Audit Committee's reply dated June 22, 2015, on the said Auditors' Report, it was observed that “provisions were created in the books of accounts for the amounts diverted from USL to other United Breweries (UB) Group companies, in particular KFA.”

Accordingly, USL was advised to provide the following information:

- i. *Details of the modus operandi by which the funds were diverted;*
 - ii. *Details of such transactions including amount involved, actions taken on the same for recovering such diverted funds and its current status;*
 - iii. *Actions taken, in detail, on transactions including amount involved, on which provisions were created for the amounts diverted from USL to other UB Group companies, in particular KFA.*
 - iv. *Actions taken, in detail, on transactions, including amount involved, which resulted into violation of various provisions of Companies Act and Equity Listing Agreement.*
 - v. *Specific details of KMPs & employees involved, transactions including amount involved and action(s) taken against such KMPs & employees.*
- c. USL was advised to provide specific explanation on how it complied with the requirements as specified in Clause 49 (II) (B) (6) (a) read with Clause 49 (II) (B) (6) (b) of Equity Listing Agreement i.e. Independent Directors shall hold at least one meeting in a year, without the attendance of Non-Independent Directors and members of management and shall *inter alia* review the performance of Non-Independent Directors and the Board as a whole.
- d. On examination of the reply furnished by USL w.r.t. clarification on Report submitted by PWC–UK, vis-a-vis certification of accounts by PWC's Indian entity, USL *inter alia* mentioned that the issues were discussed in the meeting of Audit Committee as well as the Board of Directors and the company consulted with such Auditors in accordance with applicable requirements. Further, USL stated that copies of the Internal Inquiry Report were shared with ICAI and the company had promptly responded to their clarifications. In this context, USL was advised to provide adverse information, if any, available with the company against the Auditors.
- e. With regard to recovery of loan to UBHL, USL *inter alia* stated that certain transactions were in violation of provisions of the Companies Act and the Listing Agreement. However, the financial impact of such non-compliances has been estimated by the management to be not material. In this context, USL was advised to provide specific details on transactions which resulted into aforementioned violations and action(s) taken on the same.

1.16 Vide letter dated June 16, 2016, USL referred to a PWC–UK Report and *inter alia* submitted point–wise reply –

- i. ***Specific details of mis-statement which inter alia included impact of the same on relevant financial items of each of the earlier years, remedial measures taken for correcting the same and current status of the further inquiry being undertaken by the company.***

... In response to these claims, under the instruction of the Board, a preliminary internal inquiry was initiated by the Management. Based on the findings of the preliminary internal inquiry by the management, an aggregate amount of ₹649.55 Crores (including interest claimed) was provided in the financial statements for the financial year ended March 31, 2014 and was disclosed as a prior period item. Management sought confirmation of balances from these counterparties for the year ended March 31, 2015 and March 31, 2016, but did not receive responses from some of them.

The Inquiry Report stated that between 2010 and 2013, funds involved in many of these transactions were diverted from the Company and/or its subsidiaries to certain UB Group companies including in particular, KFA. The diverted amounts were included in the provision made by the Company in the financial statements for the year ended March 31, 2014. The Inquiry also indicated that the manner in which certain transactions were conducted prima facie indicates various improprieties and potential violations of provisions inter alia of the Companies Act, 1956 and the then listing agreements signed by the Company with various stock exchanges in India on which its securities are listed. The financial impact of these non – compliances was estimated by Management to be not material. During the year ended March 31, 2015, an additional provision of ₹21.6 Crores was made for interest claimed.

In connection with the recovery of the above funds that were diverted from the Company and/or its subsidiaries, the Board took cognizance of the need for business continuity. Given the crucial fact that several of these parties (both TMU and distributors) were critical for ongoing business of the Company and had in all likelihood acted under instructions/advice from the then management of the Company in diverting the funds to UB Group/KFA, in these circumstances, the Board felt that there was a need to balance recoveries of the diverted funds with the business need to maintain its ongoing relationships with these parties to avoid adverse effects on the Company's continuing business. Consequently, the decision of the Board at its meeting held on April 25, 2015, was to direct the management to initiate steps for recovery against the relevant parties, so as to seek to expeditiously recover the Company's dues from such parties, to the extent possible, taking into account the business continuity requirements of the Company.

Pursuant to this, during the quarter ended September 30, 2015, the Company reached a settlement with one of the parties pursuant to which the party had withdrawn claims aggregating ₹27.86 Crores. Accordingly, provision amounting to ₹27.86 Crores has been written back, Subsequent to the year end, the Company had signed a Settlement Agreement with 3 other parties and based on the said settlements has reversed a provision with respect to interest claimed amounting to ₹26.46 Crores as at the balance sheet date. Management is continuing discussions to reach settlements with the remaining parties.

During the year ended March 31, 2016, based on its assessment of recoverability, the Management has written off ₹566 Crores out of the amounts provided for with respect to the aforesaid counterparties. The Management has determined that in light of these provisions, no additional material adjustments to the financial results are required on this account.

As regards status of further Inquiry being undertaken.

*... The Inquiry also identified certain additional matters (“**Additional Matters**”) where the documents identified raised serious concerns as to the propriety of the underlying transactions. The Management made the following provisions with respect to such transactions (a) ₹20 Crores made in the Company’s financial results for the year ended March 31, 2016 (b) ₹67.81 Crores made in the Company’s financial results for the financial year ended March 31, 2015 (c) ₹44.54 Crores made in the Company’s subsidiaries financial statements for the financial year ended March 31, 2015 (d) ₹15.70 Crores made in the year ended March 31, 2014 in the Company’s financial statements and (e) ₹108.71 Crores made in the year ended March 31, 2014 in the Company’s consolidated financial statements. The Management believes these provisions are adequate and no additional material adjustments are likely to be required in relation thereto.*

As the Board determined it was necessary to assess whether the additional matters or the transactions with the additional parties were improper, the Board directed the MD & CEO to expeditiously review these aspects during the period covered by the Inquiry and report to the Board his conclusions on the transactions and any further impact on the Company’s financial results. This review is in progress. Upon completion of this additional Inquiry by the Company’s Board, the Company will inform the Stock exchanges regarding the Board’s findings in relation thereto, in accordance with the provisions of the SEBI Listing Regulations, 2015 and also provide such further disclosures to any concerned regulatory authorities as may be warranted in the circumstances.

In addition, as stated in ... the Company’s audited financial statements for the year ended March 31, 2015 and as reiterated and further updated ... to the Audited Financial Results for the year ended March 31, 2016, certain pre-existing loans/deposits/advances were due to the Company and its wholly-owned subsidiaries from UBHL and were in existence as on March 31, 2013. In addition, the amounts owed by UBHL to the Company’s wholly owned subsidiaries had been assigned by such subsidiaries to the Company and recorded as loans from such subsidiaries in the books of the Company. Such dues (together with interest) aggregating ₹1337.40 Crores were consolidated into and recorded as an unsecured loan by way of an agreement entered into between the Company and UBHL on July 3, 2013. ... With regard to the prior transactions that were consolidated into the single loan on July 3, 2013, the Inquiry Report stated that prima facie between July 2010 and July 2013, certain transactions appear to have been undertaken and certain accounting entries appear to have been made to show a lower exposure of the Company (and its subsidiaries) to UBHL than the exposure that actually existed at that time. Prima facie, this indicates various improprieties and potential violations of provisions inter alia of the Companies Act, 1956 and the then listing agreements signed by the Company with various stock exchanges in India on

which its securities are listed. The financial impact of these non-compliances was estimated by Management to be not material.

... As a result of the foregoing and other relevant considerations, subsequent to the end of the quarter ended December 31, 2015, the Company has filed affidavits in the winding up proceedings against UBHL updating the Court with information regarding UBHL's conduct and default in payment of amounts due under the loan agreement. Additionally, during the current year, the Company has set-off an amount of ₹24.93 Crores payable to UBHL under the trademark agreement against the provision for interest receivables from UBHL and the Company intends to continue to set-off such payables to UBHL to the extent available for purposes of recovery of such sums from UBHL.

ii. Details of the modus operandi by which the funds were diverted;

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

- USL funds were initially provided by USL to its TMUs and these amounts were shown to be payments made for operational reasons e.g. advances or security deposits. The TMUs then forwarded the funds to certain intermediary companies who were part of or associated with the UB Group. These intermediary companies then forwarded the funds onto KFA. The close proximity regarding the dates of each of the fund transfers as well as e-mail messages indicating that the transfers from USL were intended for onward transfer to the intermediaries and then onto KFA, indicated diversion.
- In the case of two USL distributors, the distributors were each requested to advance funds as interest bearing loans to KFA or to an intermediary for onward transfer to KFA. In the case of one distributor, USL's former Chairman as well as a former senior USL officer each wrote a letter to the distributor stating that until the intermediary repaid the distributor the amount that had been so advanced by the distributor to the intermediary (₹190 Crores) with interest due thereon, an equivalent amount could be withheld (on an interest free basis) from the total operating amount owed by the distributor to USL i.e. in relation to the distributor's sale of USL products.
- Amounts that had been previously advanced by USL and its subsidiaries to UBHL and its subsidiaries and that were consolidated into the single loan dated July 3, 2013 with UBHL were further lent or advance by UBHL and its subsidiaries directly/indirectly to KFA and other UB Group Companies.

iii. Actions taken, in detail, on transactions, including amount involved, which resulted into violation of various provisions of Companies Act and Equity Listing Agreement.

The Company sought and obtained legal opinions from a former Supreme Court Judge and from a senior counsel of the Bombay High Court on the Civil and Criminal law issues, respectively, arising out of the inquiry report including in relation to potential violations of provisions of the Companies Act and ELA. ... Also the Company has duly reported the transactions and associated facts to the Bangalore Police and has also responded to requests for clarifications on the inquiry that have been sought by the Bangalore Police, the Regional Director of the Ministry of Corporate Affairs, the Income Tax Department, ICAI, the Stock Exchanges, SFIO of the Ministry of Corporate Affairs, for appropriate action.

iv. Specific details of KMPs & employees involved, transactions including amount involved and action(s) taken against such KMPs & employees.

- *At a meeting of the Board of Directors held on April 25, 2015, the Board expressed that in light of the inquiry findings, it had lost confidence in VJM continuing in his role as a Director and as Chairman. The Board therefore, called on VJM to resign forthwith as a Director and as the Chairman of the Board and step down from his positions in USL's subsidiaries. The Board also resolved that if VJM declined to step down, the Board would recommend to USL's shareholders, his removal as a Director and as Chairman of the Board. VJM refused to step down and disputes emerged between VJM and the Board as well as the Company as a result of the foregoing. These disputes were settled in February 2016 as has been previously reported by the Company to SEBI and the stock exchanges.*
- *As Mr. Ashok Capoor had retired and left the Company some time before the Board concluded its inquiry and as Mr. P. A. Murali had resigned from USL before April 25, 2015, the Board could not initiate any action against these former employees. The Board has, however, as mentioned above, provided copies of the Inquiry Report to various regulatory and other authorities.*
- *At the April 25, 2015 Board Meeting, a resolution was also passed to initiate necessary internal proceedings in respect of the other employees of the Company who appear to have been involved in certain transactions covered by the inquiry. Pursuant to this direction, USL's MD & CEO Mr. Anand Kripalu through an e-mail, constituted an Internal Committee (IC) on April 26, 2015, comprising senior, independent officers of USL.*
- *The IC conducted internal proceedings in respect of the employees named above, as per USL's internal procedures and recommended disciplinary measures against such employees in accordance with USL's internal procedures and rules, which have been substantially implemented. These measures were also communicated to USL's Board.*

- v. *USL was advised to provide specific explanation on how it complied with the requirements as specified in Clause 49 (II) (B) (6) (a) read with Clause 49 (II) (B) (6) (b) of Equity Listing Agreement i.e. Independent Directors shall hold at least one meeting in a year, without the attendance of Non-Independent Directors and members of management and shall inter alia review the performance of Non-Independent Directors and the Board as a whole.*

Meeting of the Independent Directors during the financial year 2014–15 was convened on May 16, 2014, in Bangalore and on May 30, 2014; August 7, 2014; March 31, 2015 in Mumbai. Meeting of the Independent Directors during the financial year 2015–16 was convened on March 17, 2016.

Based on the above mentioned facts, the Company believes it has complied with the requirements as specified in Clause 49 (II) (B) (6) (a) read with Clause 49 (II) (B) (6) (b) of Equity Listing Agreement.

- vi. *On examination of the reply furnished by USL w.r.t. clarification on Report submitted by PWC–UK, vis-a-vis certification of accounts by PWC's Indian entity, USL inter alia mentioned that the issues were discussed in the meeting of Audit Committee as well as the Board of Directors and the company consulted with such Auditors in accordance with applicable requirements. Further, USL stated that copies of the Internal Inquiry Report were shared with ICAI and the company had promptly responded to their clarifications. In this context, USL was advised to provide adverse information, if any, available with the company against the Auditors.*

The Company has not received any adverse information, till date of this letter, in regard to the above matter.

- vii. *With regard to recovery of loan to UBHL, USL inter alia stated that certain transactions were in violation of provisions of the Companies Act and the Listing Agreement. However, the financial impact of such non-compliances has been estimated by the management to be not material. In this context, USL was advised to provide specific details on transactions which resulted into aforementioned violations and action(s) taken on the same.*

As mentioned in Section 6 of the PWC's Report on the Inquiry,

- a. *Substance over form issues were noted in respect of some of the transactions executed and recorded in the books of the Company in respect of the UBHL loan.*
- b. *These accounting entries and transactions (including round tripping of funds) appear to have been undertaken to keep USL's exposure to UBHL within the Board approved limits and/or to manage expectations of external stakeholders (such as banks and financial institutions) and rating agencies.*

Transactions in relation to the above matter as identified in the Inquiry Report are mentioned below.

- a. *Shifting of UBHL loan from the books of USL to Shaw Wallace Breweries Limited (“SWBL”) for an approximate amount of ₹305 Crores.*
- b. *Using funds of ₹100 Crores temporarily advanced by USL, SWBL placed 4 Corporate Deposits worth ₹400 Crores with State Industrial & Investment Corporation of Maharashtra (“SICOM”). These Corporate Deposits were provided as security for loans of ₹100 Crores each advanced by SICOM to four intermediary companies affiliated with the UB Group. The loans were defaulted and consequently, the security was invoked by SICOM. These amounts were then repaid by UBHL to SWBL and the outstanding balance reduced.*
- c. *Shifting of USL loans to SWBL and UBHL to Project Related entities (“PREs”) – Intercompany loans provided by USL to UBHL and SWBL were reduced to the extent of ₹150 Crores by rotating funds through multiple entities, resulting in advancing of funds to PREs on the pretext of capital projects. Such advances were provided for in the books of USL as at March 31, 2014.*
- d. *Transactions that reduce period end UBHL loan balance – Transactions were recorded in a manner which gave the appearance that UBHL had repaid its dues to USL at a month end. Also transactions were noted with significant timing difference between the dates of recording receipts in the general ledger as compared to the dates of the receipt of funds according to the bank statement.*
- e. *Routing of funds to UBHL through SWBL – Transactions totaling to ₹173.35 Crores were noted that indicate loans to UBHL were routed through SWBL instead of being directly made by USL.*
- f. *Payments to UBHL subsidiaries recorded as paid to UBHL – Certain transactions totaling ₹145 Crores were noted for which payments were made to KFA or to UBHL’s subsidiary Bangalore Beverages Limited (“BBL”) as per the bank statement but these payments were recorded in the books as having been paid from USL to UBHL.*

1.17 *Vide letter dated June 20, 2016, USL subsequently submitted a copy of the PWC–UK Report.*

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

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

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

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

The Board noted that while only a Court or concerned regulatory authority would be in a position to make final determinations as to fault or culpability, the Additional Inquiry prima facie revealed further instances of actual or potential fund diversion amounting to approximately ₹913.5 Crores as well as other potentially improper transactions involving USL and its Indian and overseas subsidiaries amounting to ₹311.8 Crores. These transactions occurred during the review period covered by the Additional Inquiry i.e. from October 2010 to July 2014 (Review Period, which was substantially the same as the period covered by the Initial Inquiry) although certain transactions appear to have been initiated in year prior to the Review Period.

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

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

1.19 Thereafter, SEBI received a letter dated July 11, 2016, whereby USL submitted a copy of the Company's Additional Inquiry Report dated June 29, 2016 (as prepared by Ernst & Young).

1.20 Vide letter dated August 5, 2016, in reply to clarifications sought by SEBI pursuant to a meeting held on August 3, 2016 (between SEBI and representatives of USL), USL provided the following information –

i. Clarification with regard to the amount reported as diversion under the PWC–UK Inquiry Report.

TABLE VI – DIVERSION OF FUNDS/IMPROPER TRANSACTIONS		
SR. No.	NAME OF ENTITY	TOTAL AMOUNT OWED TO USL (₹ IN CRORE)
A.	TRADE RECEIVABLES FROM DISTRIBUTORS	230.02
B.	ADVANCES TO TIE-UP MANUFACTURING UNITS	275.53
C.	ADVANCES TO PROJECT RELATED ENTITIES	150.00
TOTAL		655.55

As mentioned in the PWC–UK Inquiry Report, “Of the ₹433.4 Crores transferred to 13 entities, approximately ₹403.4 Crores has been transferred to three intermediaries, KFA and UBHL. The majority of funds transferred to the intermediaries appear to have been subsequently transferred to KFA.”

Excluding the interest claimed i.e. ₹72.1 Crores, the amount of ₹433.4 Crores referred to in the PWC–UK Report is excluding the amount of ₹150 Crores shown in the above table as owed to USL by the Project related entities.

Further, the PWC–UK Inquiry Report states that “Inter-company loans provided by USL to UBHL and SWBL were reduced to the extent of ₹150 Crores by rotating funds through multiple entities, resulting in advancing of funds to PRE’s on the pretext of capital projects. The substitution effectively transferred the amount owing from related parties to Project related entities. Further, e-mail communications directing the transfer of funds and a related spreadsheet indicate that the intent was to use these transfers for purposes other than those of USL’s business.”

Furthermore, although the PWC–UK Report also dealt with the UBHL loan, since UBHL has undertaken (under the loan agreement between USL and UBHL) to pay these amounts back to USL, in USL’s management’s view and based on legal advice received, the amounts covered by the UBHL loan are no longer considered as a diversion of USL funds.

Accordingly, the abovementioned amount of (₹655.55) Crores is considered as diversion based on the PWC–UK Inquiry Report.

ii. Clarification with regard to the amount reported as diversion under the E&Y Inquiry Report.

As stated in USL’s disclosure to the stock exchanges issued on July 9, 2016, the Additional Enquiry prima facie reveals further instances of actual or potential fund diversions amounting to approximately ₹913.5 Crores as well as improper transactions involving USL and its Indian and overseas subsidiaries amounting to approximately ₹311.8 Crores. These amounts were identified by USL’s Audit Committee and Board based on the findings contained in the E&Y Report. The break-up of the total amount into groups is provided below –

NATURE OF TRANSACTION		₹ IN CRORES
A.	FUND DIVERSION	616.58
B.	POTENTIAL FUND DIVERSION	296.90
C.	POTENTIALLY IMPROPER TRANSACTIONS	**311.76
TOTAL		1225.24
<p>** Out of the amount of ₹311.76 Crores an amount of ₹92.5 Crores was included as part of UBHL loan. Although E&Y classified the underlying transactions involving these amounts as fund diversion, as mentioned above, since the amounts have been consolidated into the loan agreement with UBHL and since UBHL has undertaken (under the agreement) to pay these amounts back to USL, in USL’s management’s view, and based on legal advice received, the amounts are no longer considered as a diversion of USL funds.</p>		

1.21 OBSERVATIONS CONTAINED IN THE PWC–UK REPORT DATED MARCH 24, 2015 –

In the PWC–UK Report, it was *inter alia* stated:

- i. USL provided funds to the companies of the UB Group to the tune of ₹655.55 Crores (including interest of ₹72.12 Crores), directly and indirectly, through the subsidiaries/PACs of United Breweries (Holdings) Limited (“UBHL”), viz.
 - a. Margosa Consultancy Pvt. Limited (“**Margosa Consultancy**”);
 - b. Redect Consultancy Pvt. Limited (“**Redect Consultancy**”);
 - c. Bangalore Beverages Limited (“**Bangalore Beverages**”) and
 - d. Bestride Consultancy Pvt. Limited (“**Bestride Consultancy**”).
- ii. A break up of the funds diverted/improper transactions of ₹655.55 Crores to the companies of the UB Group is provided as under –

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

- iii. The *modus operandi* adopted was as under –
 - a. USL first gave trade receivables/advances to distributors/TMUs/Project Related Entities (“**PRE**”) and such advances were *inter alia* disclosed as amounts provided for working capital requirement, enhancement of capacities, lease deposits in the books of accounts of USL.
 - b. The funds were then transferred to UB Group companies under instructions from Mallya and other Key Management Persons (“**KMP**”).

- c. The distributors/TMU/PRE of USL, refused to return the advances to USL stating the reason that the funds were due from the UB Group companies to whom they had forwarded the funds at the behest of Mallya. Further, the distributors/TMU/PRE of USL refused to return the said amounts till such time they receive the funds due from the UB Group companies.
 - d. In its Report, PWC–UK stated that one of the distributors, viz. Wave, in its defence relied upon letters dated January 5, 2012, signed by Mallya and Mr. Ashok Capoor (the then-MD of USL), whereby it was permitted to withhold payments due to USL till such time it collects funds from the UB Group companies.
 - e. In its Report, PWC–UK also stated that the funds transferred by USL were ultimately transferred to a few companies in the UB Group. In one such instance, USL transferred ₹25 crore to a TMU namely Utkal on November 24, 2011 and the same was transferred by Utkal to KFA, on the same day. Similar instances of such fund diversion are also mentioned in the said report.
- iv. The following persons/officials of USL were active and/or had knowledge of the diversion of funds as detailed at paragraph 1.20, viz. –

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

1.22 OBSERVATIONS CONTAINED IN THE ERNST & YOUNG REPORT DATED JUNE 29, 2016 –

In the Ernst & Young Report [“E&Y Report”], it was *inter alia* stated:

- i. As observed from available electronically stored information relating to the books of account/financial statements/bank statements, etc. there was a diversion of funds and potentially improper transactions amounting to ₹1225.24 Crores, detailed as under –

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

ii. The above is explained below –

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

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

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

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

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

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

Findings –

- 2.1 As observed from the PWC–UK Report, the individual involvement of the persons at Table VIII of page 23 who were indicated as being active and/ or had knowledge of the diversion of funds, is discussed in detail below –

A. DR. VIJAY MALLYA

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

- i. Mallya issued a letter dated January 5, 2012, authorizing Wave to withhold ₹190 Crores due to USL. An identical letter of the same date was sent by Mr. Ashok Capoor to Wave on behalf of USL.
- ii. Vide an e-mail dated March 25, 2012, Mallya wrote to Ashok Capoor and PA Murali that KFA had significant dues towards the Income Tax Appellate Tribunal and instructed that USL *"would have to come up with ₹ 44 Crores, if needed."*
- iii. Vide an e-mail dated April 19, 2012, addressed to PA Murali, USL's Chief Financial Officer, Mallya stated:

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

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

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

A) HDFC

B) Bank of Maharashtra

C) Pelican funding

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

4. As the Pelican funding is complex and time consuming despite best efforts, I am asking for interim funding support from USL. Once this is in place, UBHL can return funds to USL with the appropriate accounting entries."
- iv. Mr. Ashok Capoor, vide an e-mail dated July 13, 2012, *inter alia* informed Mallya that it was not possible for USL to support UB Group companies to meet any of their needs and in fact, USL needed support from UB Group companies in those circumstances. In response, Mallya vide his e-mail dated July 18, 2012, stated that *"I know the USL position exactly. It is my final call. If you cannot accept my instructions, you are free to decide your further steps.... but let me repeat, my call is final and an instruction."*

B. MR. ASHOK CAPOOR

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

C. MR. P.A. MURALI

Mr. P. A. Murali was the Executive Director and Chief Financial Officer of USL. He had knowledge of the channeling of USL funds to UB Group companies, directly and through UBHL Subsidiaries. He appeared

to have acted under the directions of Mallya to arrange funds. Certain instances of the same were as under:

- i. PA Murali vide e-mail dated July 11, 2012, to Ashok Capoor with subject as 'KFA salaries' stated as under:
"The trailing mails are self-explanatory. In view of VJM's (ref. to Mallya) directions below, we will be constrained to divert any collections that we may have net of adjustments being done directly by the bankers for their overdue interest / installments / devolved LCs, for group support."
- ii. It may be noted that Mallya vide email dated July 10, 2012, instructed PA Murali as follows:
"The non-payment of salaries has become a very serious issue that needs to be addressed immediately today itself. KFA needs to start demonstrating some employee payments. Talk to Raghu (A. Raghunathan, CFO, KFA) and do the needful so that we keep the show on the road."
- iii. In another instance, PA Murali vide an e-mail dated November 29, 2011, to KFA with copy to Mallya, S.N. Prasad, Harish Bhat and A. Raghunathan (CFO, KFA) stated as under:
"The primary reason being the need to keep the headroom available for them to release monies to USL for doing the round robin shifts before utilizing it for our purposes. We are working on various TMUs to complete the shift in the manner that we discussed which could be a time span of 7-10 working days."
- iv. The said e-mail is in line with the *modus operandi* with respect to distributors/ TMUs/ PREs as discussed earlier.

D. MR. SOWMIYANARAYANAN ("SOWMI")

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

E. MR. S.N. PRASAD

- i. S. N. Prasad was the Senior Vice President – Finance and Accounts of USL. The details available on record show that Mr. S.N. Prasad had knowledge of the direct and indirect financial support being provided to UB Group companies by USL. In an e-mail dated March 26, 2012, addressed to P.A. Murali with a copy to Sowmi, S.N. Prasad suggested different strategies for ‘round robin’ (reference to the manner of movement of funds from one entity to another to achieve the ultimate objective of providing funds to the companies of UB Group) of funds to avoid disclosure requirements.
- ii. As referred in point (ii) of discussions with respect to the role of Sowmi made above in this Order, it is noted that Mr. Ainapur S.R. sent an e-mail to Mr. Sanjay Malhotra with a copy marked to Sowmi. This e-mail was sent with instructions to transfer funds from Unnao, a TMU (out of funds transferred to Unnao) to Margosa and Redect.
- iii. Further, SN Prasad vide email dated December 2, 2011, forwarded an e-mail from Sowmi to PA Murali, which contained the details of funds transferred to KFA through various TMUs from September 7, 2011 to December 1, 2011.
- iv. Vide email dated August 11, 2011 with subject ‘KFA’, Mr. S.N. Prasad stated the following to Mr. P.A. Murali:
“Today through Utkal, we have funded KFA for ₹10 Crores for which we have a cheque from them dated 17th for the same. AR (A Raghunathan, CFO, KFA) spoke to me many times and wanted this to help in salary payments. He has promised that on 16th, the payment will be made by RTGS as soon as he received and has reconfirmed to me that no one knows the arrangement.”

F. MR. PARAMJIT SINGH GILL

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

G. MR. AINAPUR S. R.

- i. Ainapur S. R. was the Divisional Vice President–Accounts of USL. He had knowledge and involvement in the transactions with distributors as already mentioned in respect of Sowmi and Paramjit Singh Gill.
- ii. Further, on January 4, 2012, Ainapur S. R. sent an e-mail to P. A. Murali with a copy to Paramjit Singh Gill stating that Ponty Chadda (from Wave) advised USL that they will give the format of the letter and that the same should be signed by the MD of USL. The email also mentioned that Ponty Chadda advised that the amount to be mentioned in the letter should be ₹190 Crores instead of ₹140 Crores.
- iii. Pursuant to Ponty Chadha’s advice, Ashok Capoor (MD of USL) sent a letter dated January 5, 2012, authorising Wave to withhold ₹190 Crores due to USL, as mentioned earlier.

2.2 Considering the aforementioned facts and circumstances, it appears that Mallya in his capacity as Chairman of USL during the relevant period was instrumental in the diversion of funds from USL. In his endeavor to supply funds from USL to various companies/entities of the UB Group including KFA, he had exerted pressure on the aforementioned KMPs to comply with his instructions and the same were complied with as noted from the e-mails extracts reproduced at paragraph 2.1(A). Similarly, in his capacity as the Managing Director of USL during the period when funds were diverted, Mr. Ashok Capoor was in charge of and was responsible to USL, for the conduct of its business. It is therefore *prima facie* clear that Mallya, Mr. Ashok Capoor alongwith the other KMPs were active in facilitating and/or had knowledge of the diversion of funds from USL to the companies of the UB Group. The individuals holding key managerial positions in such listed companies have to follow high standards of integrity and ensure good governance. By diverting substantial funds from USL to companies of the UB Group, Mallya and other KMPs have engaged in an act or practice which *prima facie* operated as a fraud or deceit on the public shareholder/investors of USL.

2.3 Mallya and the other KMPs i.e. Mr. Ashok Capoor, Mr. P.A. Murali, Mr. Sowmiyanarayanan, Mr. S.N. Prasad, Mr. Paramjit Singh Gill and Mr. Ainapur S.R. are therefore *prima facie* alleged to have committed fraudulent and unfair activities prohibited under Section 12A(c) of the SEBI Act , 1992 (“SEBI Act”) and Regulations 3(d); 4(1) alongwith 4(2)(e), (f) and (k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (“PFUTP Regulations, 2003”).

2.4 The alleged *prima facie* violations observed in this case are serious and have larger implications on the safety and integrity of the securities market. Investors might have based their investment decisions on the manipulated books of accounts prepared and presented by these persons. It would therefore not be in the interest of the securities market and the interest of investors to allow persons of such doubtful demeanor to continue to act as KMPs in the company or in other listed companies or allow them to deal in the securities market. Therefore, pending investigations in the matter, effective preventive and remedial actions needs to

be taken against the persons in order to safeguard the integrity of the securities market. Accordingly, the facts and circumstances of the case necessitates the issuance of this *Ad Interim Ex-Parte Order*. In this regard, reliance is placed on the observations of the Hon'ble Supreme Court in *SEBI vs. M/s Opee Stock – Link Limited & Anr. (Civil Appeal 2252 of 2010 – Judgment dated July 11, 2016)*, wherein it held:

“If one looks at the purpose with which the (SEBI) Act has been enacted, one can see that its object is to regulate the securities market and check unfair trade practices. Its object is also to promote fairness and efficiency in all dealings relating to the capital market so that confidence of the persons having dealings with shares etc. is enhanced. One of the most important objects is to protect the interest of the investors.”

FURTHER ISSUES UNDER EXAMINATION BY SEBI –

- 3.1 As per the explanation given in the notes to accounts of the Annual Report (Financial Year 2014–15), it has been stated: *“The (Initial) Inquiry Report stated that between 2010 and 2013, funds involved in many of these transactions were diverted from the Company and/or its subsidiaries to certain UB Group companies, including in particular, KFA.”* The details of the Auditors of USL for the aforesaid period is provided at paragraph 1.10. The role of the aforesaid Auditors *inter alia* in the non–detection of diversion of funds from USL is also being examined separately by SEBI.
- 3.2 On February 25, 2016, Diageo entered into a Settlement Agreement with Mallya wherein it agreed to pay USD 75 million as settlement amount to him. In furtherance of such Agreement, Mallya resigned from his position as Chairman and Non–Executive Director of USL. On the same date, USL and Mallya entered into an agreement wherein they agreed to a mutual release in relation to matters arising out of the Initial Inquiry by USL. The matter of Diageo entering into a Settlement Agreement with Mallya vis–a–vis USL’s agreement with Mallya is being examined separately by SEBI.
- 3.3 As stated earlier, by way of the Settlement Agreement entered into between Diageo and Mallya, Diageo agreed to pay USD 75 million to Mallya who in turn agreed to resign from his position as Chairman and Director of USL and also Director in other USL Group Companies. Diageo and USL agreed with UBHL and Kingfisher Finvest India Limited (“**KFinvest**”) to terminate the Shareholder’s Agreement entered into between the parties on November 9, 2013. The aspect of change in control of USL is also being examined separately by SEBI.
- 3.4 Diageo Holding Netherlands B.V. (“**DHN**”) issued a bank guarantee amounting to USD 135 million to Standard Chartered Bank in July 4, 2013, with respect to liability of Watson Limited, a company affiliated to Mallya. Watson defaulted in May 2015. On January 29, 2016, DHN paid USD 140.97 million (inclusive of principal, interest, costs, fees and expenses) to Standard Chartered Bank. Vide letter dated June 16, 2016, SEBI directed Diageo that: *“the net liability (i.e. payment under the guarantee minus value recovered through collateral and other arrangement) incurred by Diageo, if any, on account of providing the said guarantee shall be considered to be part of the Offer price paid for the acquisition of shares of USL in terms of Regulation 8(7) and 8(10) of the*

Takeover Regulations, 2011. The differences between the offer price and the total consideration (SPA consideration + net liability under guarantee) shall be paid to the shareholders who have tendered in the open offer in 2012.” Diageo has filed an appeal before the Hon’ble Securities Appellate Tribunal against the aforesaid SEBI direction.

ORDER –

4.1 In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Section 19 read with Sections 11(1), 11(4)(b) and 11B of the SEBI Act, issue the following directions –

- i. The following persons 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, –

SR. NO.	NAME	PAN
1.	DR. VIJAY MALLYA	AENPM6247A
2.	ASHOK CAPOOR	AAKPC0254G
3.	P.A. MURALI	ADBPM6778K
4.	SOWMIYANARAYANAN	AJAPS4294F
5.	S.N. PRASAD	ADWPP7032J
6.	PARAMJIT SINGH GILL	ANJPG8261F
7.	AINAPUR S. R.	ACSPA7910M

- ii. The following persons are restrained from holding position as Directors or Key Managerial Persons of any listed company –

SR. NO.	NAME	PAN
1.	DR. VIJAY MALLYA	AENPM6247A
2.	ASHOK CAPOOR	AAKPC0254G

- iii. The aforementioned persons may file their replies to SEBI within 21 days from the date of receipt of this Order. They may also indicate in their replies whether they wish to avail an opportunity of personal hearing in the matter.

4.2 USL shall, within 21 days from the date of receipt of this Order, provide SEBI with the following information –

- i. Action(s) taken against the persons mentioned at paragraph 4.1(i);
- ii. Steps taken to recover the following amounts (from Dr. Vijay Mallya and the companies to whom such funds were wrongly diverted), which have been reported as diversion, –

- a. Under the PWC–UK Report i.e. ₹655.55 Crores and
- b. Under the E&Y Report i.e. ₹1225.24 Crores.

4.3 The above directions shall come into force with immediate effect and shall be in force till further directions.

4.4 This Order is without prejudice to the right of SEBI to take any other action that may be initiated against the persons/entities covered under this Order, in accordance with law.

Place: Mumbai
Date: January 25, 2017

S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA