



General Manager
Eastern Regional Office

SEBI/ERO/OW/P/1/20616/2024

June 24, 2024

By Speed Post Ack. Due

Noticees:

Noticee No. 1 1. Sarvoday Agro Power Ltd. (CIN: U45400WB2007PLC116883) PAN No. – AAOCS8605G No. 8, Biplabi U. K. Dutta Road, P.S. Jadavpur Kolkata, West Bengal – 700086	Noticee No. 1 Sarvoday Agro Power Limited 108A, Ballygunge Garden P.S. Ballygunge Kolkata – 700029
2. Noticee No. 2 Anup Prabhakar Toppo DIN: 0002679198 S/O Lakshaman Toppo House No. 81, Street/Mohalla Guhibondh, PO Katrasgadth, Dhanbad, Jharkhand 828113	3. Noticee No. 3 Bhola Prasad Vishwakarma DIN: 0003039139, PAN No. – AIDPV1683E S/O Rajendra Prasad Vishkarma House No. 71, Rajaganj Road, Near PNB Bank Katras Bazar, Dhanbad Jharkhand – 828114
4. Noticee No. 4 Kalipad Rajak DIN: 0003039162 PAN No. – ALVPR2003C S/O Amulaya Dhoba Vill Fulwar Post – Pradhankhanta P.S. Katrasgarh Dhanbad Jharkhand – 828114	5. Noticee No. 5 Santosh Kumar Pathak DIN: 0003049455 PAN No. – ATIPP1350K S/O Rameschandra Pathak 79, Dhangi, Topchanchi, PO – Rowam, Dhanbad, Jharkhand – 828113



6. Noticee No. 6 Jitendra Kumar Choudhary DIN: 0005209522 PAN No. – AIBPC6752C S/O Bhola Choudhary 53, DVC More Upper Kandra, Motinagar, Dhanbad, Jharkhand – 828120	7. Noticee No. 7 Sanjeev Kumar Vishwakarma DIN: 0005291375 PAN No. – AIXPV3212C S/O Ramsharan Vishwakarma Near LIC Office Katras Bazar Dhanbad Jharkhand – 828114
8. Noticee No. 8 Mantosh Pathak DIN: 0005306906 PAN No. AYRPP2052Q S/O Sudhir Chandra Pathak, 81, Dhangl Thana No. 204, Rowam Dist Dhanbad, Jharkhand – 828113	9. Noticee No. 9 Mritunjay Gorai DIN: 0001528944 PAN No. AHEPG4179K S/O Krishna Pada Gorai Surya Sen Pally, Ward No. 3, Purulia, West Bengal – 723101
10. Noticee No. 10 Dulal Maity DIN: 0001528919 PAN No. BREPM799E S/O Nabadwip Maity Vill – Barbaria, Paikbar, PO Chansarpur, Tamluk, Purba Medinipur, RtamLuk West Bengal – 721653	11. Noticee No. 11 Tarun Chatterjee DIN: 0001528929 PAN No. – AFSPC0946C S/o Saktidhar Chatterjee Paikpara, Sahapur, Purbapara, Kolaghat, Purba Medinipur, West Bengal – 721134
12. Noticee No. 12 Ranbir Singh DIN: 0002280602 PAN No. AYOPS7302R S/O Basuedv Prasad Singh Icchapur Gwalapara Near Sahara City Adityapur, Jamshedpur, Jharkhand – 831013	13. Noticee No. 13 Nilkanth Mahato DIN: 0002683760 PAN No. APDPM3207R S/O Jagdish Prasad Mahato Vill & PO Ramakunda, P.O. Topchanchi, Dhanbad, Jharkhand – 828306

14. Noticee No. 14 Ashok Kumar Golder DIN: 0002917554 PAN No. AJKPG4292P S/O Raghunandan Golder 49/1, Central Road Jadavpur Kolkata – 700032	15. Noticee No. 15 Hiralal Ravidas DIN: 0003060521 PAN No. – AQQPR3441J S/o Kamal Ravidas 164, Dumara, Baghmara, PO Nawagar, Dhanbad, Jharkhand - 828306
16. Noticee No. 16 (Debenture Trust) Sarvoday Debenture Trust (Moral Debenture Trust) 108A, Ballygunge Garden P.S. Ballygunge Kolkata 700029	17. Noticee No. 17 (Trustee) Shri Sambhunath Tewary S/O Shri Mrityunjay Tewary Vill. Lewatand P.O. Rowam District Dhanbad Jharkhand – 828113
18. Noticee No. 18 (Trustee) Shri Anil Kumar Gupta S/O Late Shankar Prasad Gupta Kali Mandir, P.O. & P.S. Baghmara Dist. Dhanbad Jharkhand 828306	19. Noticee No. 19 Sarvoday 2012 Debenture Trust No. 8, Biplabi U.K. Dutta Road P.S. Jadavpur Kolkata West Bengal – 700086
20. Noticee No. 20 Shri Gobind Prasad Gupta PAN No. ACEPG4609B P.O. & P.S. Dumri District – Giridih Jharkhand – 825106	

Sub: Show Cause Notice under Sections 11(1), 11B(1) of the Securities and Exchange Board of India Act, 1992 in the matter of Sarvoday Agro Power Limited (CIN: U45400WB2007PLC116883)

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') received a reference dated 24/06/2022 (*Annexure 1*) and Inspection Report from MCA vide letter dated 23/09/2022 from Ministry of Corporate Affairs stating that Sarvoday Agro Power Limited (SAPL or 'the Company' hereinafter) raised money from public from 25/06/2010 to 31/03/2012 and 15/05/2012 to 31/10/2012 by issuing Secured Non-Convertible Redeemable Debentures (NCDs).

2. SEBI conducted an examination into the issuance of NCDs by SAPL, bearing CIN: U45400WB2007PLC116883, having Registered Office at 8, Biplabi U. K. Dutta Road, Kolkata, West Bengal – 700086, with a view to ascertain the possible violation of the relevant provisions of the Companies Act, 1956, Securities and Exchange Board of India Act, 1992 and the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (ILDS Regulations).
3. As per details received from Registrar of Companies (ROC) – Kolkata (*Annexure 2*), following is the list of directors of SAPL:

Sr. No.	DIN	Director Name And Address	Date Of Appointment	Date Of Cessation	PAN
1	0002679198	Anup Prabhakar Toppo	31/03/2010	-	-
2	0003039139	Bhola Prasad Vishwakarma	10/06/2010	-	AIDPV1638E
3	0003039162	Kalipad Rajak	10/06/2010	-	ALVPR2003C
4	0003049455	Santosh Kumar Pathak	05/06/2010	-	ATIPP1350K
5	0005209522	Jitendra Kumar Choudhary	20/06/2012	-	AIBPC6752C
6	0005291375	Sanjeev Kumar Vishwakarma	20/06/2012	-	AIXPV3212C
7	0005306906	Mantosh Pathak	20/06/2012	-	AYRPP2052Q
8	0001528944	Mritunjay Gorai	02/07/2007	20/08/2010 31/03/2010*	AHEPG4179K
			15/09/2010	31/12/2016*	
9	0001528919	Dulal Maity	02/07/2007	20/08/2010	BREPM7999E
10	0001528929	Tarun Chatterjee	02/07/2007	20/08/2010	AFSPC0946C
11	0002280602	Ranbir Singh	15/10/2008	23/04/2011	AYOPS7302R
12	0002683760	Lilkanth Mahato	10/06/2010	20/08/2010	APDPM3207R
13	0002917554	Ashok Kumar Golder	01/09/2010	23/04/2011	AJKPG4292P
14	0003060521	Hiralal Ravidas	10/06/2010	20/06/2012	AQQPR3441J
15	0008987846	Shiv Shakti Kumar Gupta	25/10/2021	-	AONPG6273N

* PANs have been obtained from the Income Tax Department

4. Letters dated February 06, 2023 and February 08, 2023 (**Annexure 3**) were sent to SAPL and its directors seeking information w.r.t. the company including details of issuance of Equity shares/convertible or non-convertible instruments/preference shares etc. The status of the delivery of the said letters are as follows:

Sl. No.	Name of entity/director	Date of Letter	Status/ Date of Delivery	Reply received by SEBI
1.	Sarvoday Agro Power Ltd. (Compliance Officer)	06.02.2023	Returned Undelivered	No
2.	Anup Prabhakar Toppo	06.02.2023	Returned with remarks – Insufficient Address	No
3.	Bhola Prasad Vishwakarma	06.02.2023	Delivered	Yes
4.	Kalipad Rajak	06.02.2023	Delivered	No
5.	Santosh Kumar Pathak	06.02.2023	Delivered	No
6.	Jitendra Kumar Choudhary	06.02.2023	Returned with remarks – Left	No
7.	Sanjeev Kumar Vishwakarma	06.02.2023	Delivered	No
8.	Mantosh Pathak	06.02.2023	Delivered	No
9.	Mritunjay Gorai	06.02.2023	Delivered	No
10.	Dulal Maity	06.02.2023	Delivered	No
11.	Tarun Chatterjee	08.02.2023	Returned with remarks – Deceased	No
12.	Ranvir Singh	08.02.2023	Delivered	No
13.	Nilkanth Mahato	08.02.2023	Delivered	No
14.	Ashok Kumar Golder	08.02.2023	Returned with remarks – Left	No
15.	Hiralal Ravidas	08.02.2023	Delivered	No
16.	Shiv Shakti Kumar Gupta	08.02.2023	Delivered	No

5. No reply was received from the aforesaid directors except Shri Bhola Prasad Vishwakarma, who vide letter dated 22/02/2023 (*Annexure 4*) submitted that the company has not issued secured non-convertible debentures to the public but has issued debentures to private persons and the same is being refunded. Further, he also submitted that the entire liability will be set off within a year. However, no documentary evidence to substantiate the claim of refund to the investors was produced. Shri Vishwakarma mentioned his designation as Managing Director in the said letter.
6. The inspection report of the MCA along with the annexures was perused (*relevant extracts of Inspection Report & its annexures at Annexure 5*). Following is observed from the inspection report:
- 6.1 The company issued NCDs in two series. For the first series of NCDs, the Board of Directors in its meeting held on 30/04/2010 had passed a resolution with regard to calling EGM on 02/06/2010 for the purpose of considering the issue of NCDs of value not exceeding Rs. 10 crores. However, in the extra ordinary general meeting of shareholders dated 01/06/2010, it was resolved that SAPL can issue NCDs aggregating to Rs. 1 crore on private placement basis in tranches.
- 6.2 Pursuant to the said meeting / resolution dated 30/4/2010 and 01/06/2010, a debenture trust deed was executed on 02/06/2010 (*Annexure 6*) between SAPL on one part and Sri Sambhunath Tewary & Sri Anil Kumar Gupta as trustees on the other part; wherein it was proposed to raise capital aggregating to Rs. 10 crores by issuing a series of 10,00,000 NCDs of face value Rs. 100. The details of scheme as per Trust Deed is as under:

Scheme I: Multiplier Secured Redeemable Debenture						
Plan	A	B	C	D	E	F
Issue Price Minimum 10 debentures @ Rs. 100 per debenture	1000/-	1000/-	1000/-	1000/-	1000/-	1000/-
Maturity Value	1150/-	1500/-	2000/-	3000/-	6000/-	10000/-
Redemption Period	1 yr.	2.5 yrs	4.5 yrs.	7 yrs.	10 yrs.	12 yrs.

Scheme II: Multiplier Four Call Secured Non-Convertible Redeemable Debenture						
Plan issue Price Minimum 10 Debentures in one call and in multiple of 10 Debenture	Maturity value if call complete				Redemption remarks period 1 st call application money for debenture is the minimum amount in the scheme for a person for other call, which is not be delayed more than one year from previous call date	
	One	Two	Three	Four		
F 1000	1200	3600	5500	8000	8 years from 1 st call application date	

Scheme III: Regular Income Secured Redeemable Debenture				
Plan	Minimum price 500 debenture @ 100 500 (Interest payable monthly)	Redemption period	3 Years	5 Years
		Rate of Interest (Per year)	13%	13.5%

The details of money raised by SAPL through issuance of NCDs in furtherance to the said meeting / resolution dated 30/04/2010 and 01/06/2010 in 1st series is as below:

Series	Duration		No of Allottees	No of Debentures allotted	Face value per debenture (Rs.)	Amount
	From	To				
1 st	25.06.2010	31.03.2012	1059	1,00,000	100	1,00,00,000/-

6.3 For the issuance of second series of NCDs, the Board of Directors in its meeting held on April 16, 2012 had passed a resolution to raise a sum of Rs. 25 crores by issue of 25,00,000 NCDs of Rs. 100/- each, bearing interest at 13.5% having different redemption period between 3 years to 15 years.

6.4 In the extra ordinary general meeting of shareholders held on April 16, 2012, it was resolved that SAPL can borrow upto Rs. 30 crores including issuance of NCDs aggregating to Rs. 26 crores. Accordingly, a debenture trust deed was executed on April 25, 2012 (**Annexure 7**) between SAPL on one part and Gobind Prasad Gupta (Trustee) on the other part. The details of scheme as per Trust Deed is as below:

Scheme A: Multiplier Secured Redeemable Debenture					
Plan	A	B	C	D	E
Issue Price minimum 1 Debenture @ Rs. 100/- per debenture	100/-	100/-	100/-	100/-	100/-
Maturity Value	-	-	-	-	-
Redemption Period	3 yrs.	4 yrs	5 yrs.	6 yrs.	7 to 15 yrs.

Scheme B: Regular Income Secured Debenture

Plan	Minimum		Redemption period	Annualized yield on Investments	Payable
A	100	1000	3 – 15 Years	13.5%	Monthly / Quarterly / Yearly / Cumulative

The details of money raised by SAPL through issuance of NCDs in furtherance to the said meetings/resolution dated 16/04/2012 in 2nd series is as below:

Series	Duration		No of Allottees	No of Debentures allotted	Face value per debenture (Rs.)	Amount
	From	To				
2 nd	15.05.2012	31.10.2012	2563	3,67,575	100	3,67,57,500/-

6.5 Further, SAPL in its letter dated November 12, 2012 (**Annexure 8**) has submitted to MCA the list of allottees to whom upon maturity of NCDs, amounts were repaid during October 2011 to October 2012.

No of allottees	Maturity amount	Duration
70	13,68,500	October 2011 to October 2012

It is observed that the company has not provided mode of payment, confirmation of receipt by allottees and/or CA certificate as a supporting document. Hence, it is observed that SAPL has not refunded maturity amount to NCDs allottees.

7. The total amount raised by SAPL in two series of NCDs during 2010-2012 is as below:

Series	Duration		No of Allottees	No of Debentures allotted	Face value per debenture (Rs.)	Amount
	From	To				
1 st	25.06.2010	31.03.2012	1059	1,00,000	100	1,00,00,000/-
2 nd	15.05.2012	31.10.2012	2563	3,67,575	100	3,67,57,500/-
Total			3622	4,67,575	100	4,67,57,500/-

From the above table, it is noted that the company issued a total of 4,67,575 debentures and raised Rs. 4,67,57,500/- (~ Rs. 4.67 Crores) from 3622 allottees.

8. It is noted that Debenture Trustee i.e. Sarvoday Debenture Trust (also called Moral Debenture Trust) and trustees namely (i) Sri Sambhunath Tewary and (ii) Anil Kumar Gupta (1st series) and Debenture Trustee i.e. Sarvoday 2012 Debenture Trust and trustee namely Gobind Prasad Gupta (2nd Series), who acted as debenture trustee in respect of above 2 series of NCDs by SAPL, were/are not registered with SEBI. Thus, it is noted that Noticees No. 16 to 19 have violated Section 12 (1) of SEBI Act, 1992 read with Regulation 7 of SEBI (Debenture Trustees) Regulations, 1993.
9. Since SAPL issued NCDs to more than 49 persons in FY 2010-11, 2011-12 and 2012-13, it amounts to public issue of securities as per the first proviso to Section 67(3) of the Companies Act, 1956. The Companies Act, 2013 read with Rule 14 of the Companies (Prospectus and Allotment of securities) Rules, 2014 revised this limit upwards to 200 persons in a financial year w.e.f 01.04.2014. However, since the allotments were made before this limit of 200 came into effect, the limit of 50 persons as per Companies Act, 1956 is applicable in the instant case.
10. Though the Companies Act, 1956, has been repealed by the Companies Act, 2013, anything done or any action taken or purported to have been done or taken under the Companies Act, 1956, is deemed to have been done or taken under the corresponding provisions of the Companies Act, 2013, by virtue of Section 465(2) of the Companies Act, 2013, and is therefore saved regardless of the repeal of the Companies Act, 1956.
11. The findings are summarized as follows:
 - i. SAPL issued NCDs to more than 49 persons in financial years 2010-2011, 2011-2012 & 2012-13 by inviting applications from the general public;
 - ii. SAPL did not file any prospectus in connection with the issue of securities;
 - iii. SAPL did not get the NCDs listed with the Stock Exchange,

- iv. SAPL appointed unregistered Debenture Trustee for the aforesaid issue of debentures.
- v. SAPL did not refund the money collected from investors.
- vi. Noticees No. 16 to 19 acted as Debenture Trustee for the said issuance of NCDs by SAPL without obtaining registration from SEBI.

12. It is, therefore, alleged that:

- i. Noticees No. 1 to 15 have violated provisions of Section 56(1), 56(3), Section 60 read with Section 2(36), Section 67(3) and Section 73(1), (2) & (3) of the Companies Act, 1956 read with Section 465(2) of Companies Act, 2013;
- ii. Noticees No. 1 to 15 have violated Regulations 4(2)(a), 4(2)(b), 4(2)(c), 4(2)(d), 4(4), 5(2)(b), 6, 7, 8, 9, 12, 14, 15, 19 and 26 of SEBI (Issue and Listing of Debt Securities) Regulations, 2008 read with Regulation 59 of SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021; and
- iii. Noticees No. 16 to 20 have violated Section 12(1) of the SEBI Act, 1992 read with Regulation 7 of the SEBI (Debenture Trustees) Regulations, 1993.

13. The relevant regulatory provisions alleged to have been violated by the Noticees are as follows:

I. Companies Act, 1956:

“56. Matters to be stated and Reports to be set out in Prospectus

(1) Every prospectus issued -

(a) by or on behalf of a company, or

(b) by or on behalf of any person who is or has been engaged or interested in the formation of a company, shall state the matters specified in Part I of Schedule II and set out the reports specified in Part II of that Schedule; and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule.

(2)

(3) No one shall issue any form of application for shares or debentures of a company, unless the form is accompanied by a memorandum containing such salient features of a prospectus as may be prescribed] which complies with the requirements of this section:”

[Provided that a copy of the prospectus shall, on a request being made by any person before the closing of the subscription list, be furnished to him:] Provided [further] that this sub-section shall not apply if it is shown that the form of application was issued either - (a) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or (b) in relation to shares or

debentures which were not offered to the public. If any person acts in contravention of the provisions of this sub-section, he shall be punishable with fine which may extend to [fifty] thousand rupees.

“60. REGISTRATION OF PROSPECTUS

(1) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless, on or before the date of its publication, there has been delivered to the Registrar for registration a copy thereof signed by every person who is named therein as a director or proposed director of the company or by his agent authorised in writing, and having endorsed thereon or attached thereto -

(a) any consent to the issue of the prospectus required by section 58 from any person as an expert; and

(b) in the case of a prospectus issued generally, also -

(i) a copy of every contract required by clause 16 of Schedule II to be specified in the prospectus, or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof; and

(ii) where the persons making any report required by Part II of that Schedule have made therein, or have, without giving the reasons, indicated therein, any such adjustments as are mentioned in clause 32 of that Schedule, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.....”

“Section 2(36) of the Companies Act, 1956

(36) "prospectus" means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate.”

67. Construction of References to Offering Shares or Debentures to the Public, etc.

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

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

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

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

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

73. Allotment of Shares and Debentures to be dealt in on Stock Exchange

(1) Every company intending to offer shares or debentures to the public for subscription by the issue of a prospectus shall, before such issue, make an application to one or more recognised stock exchanges for

permission for the shares or debentures intending to be so offered to be dealt with in the stock exchange or each such stock exchange.]

[(1A)] Where a prospectus, whether issued generally or not, states that an [application under sub-section (1) has been] made for permission for the shares or debentures offered thereby to be dealt in one or more recognised stock exchanges, such prospectus shall state the name of the stock exchange or, as the case may be, each such stock exchange, and any allotment made on an application in pursuance of such prospectus shall, whenever made, be void, if the permission has not been granted by the stock exchange or each such stock exchange, as the case may be, before the expiry of ten weeks from the date of the closing of the subscription lists :

Provided that where an appeal against the decision of any recognised stock exchange refusing permission for the shares or debentures to be dealt in on that stock exchange has been preferred under section 22 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), such allotment shall not be void until the dismissal of the appeal.

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

(3) All moneys received as aforesaid shall be kept in a separate bank account maintained with a Scheduled Bank until the permission has been granted, or where an appeal has been preferred against the refusal to grant such permission, until the disposal of the appeal, and the money standing in such separate account shall, where the permission has not been applied for as aforesaid or has not been granted, be repaid within the time and in the manner specified in subsection (2) ; and if default is made in complying with this sub-section, the company, and every officer of the company who is in default, shall be punishable with fine which may extend to fifty thousand rupees.

II. Companies Act, 2013

475. Repeal of certain enactments and savings

(1).....

(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments--

(a) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have

been done or taken under the corresponding provisions of this Act;

(b) subject to the provisions of clause (a), any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act;

(c) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(d) any person appointed to any office under or by virtue of any repealed enactment shall be deemed to have been appointed to that office under or by virtue of this Act;

(e) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored;

(f) the offices existing on the commencement of this Act for the registration of companies shall continue as if they have been established under the provisions of this Act;

(g) the incorporation of companies registered under the repealed enactments shall continue to be valid and the provisions of this Act shall apply to such companies as if they were registered under this Act;

(h) all registers and all funds constituted and established under the repealed enactments shall be deemed to be registers and funds constituted or established under the corresponding provisions of this Act;

(i) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any Court shall, subject to the provisions of this Act, continue to be heard and disposed of by the said Court;

(j) any inspection, investigation or inquiry ordered to be done under the Companies Act, 1956 (1 of 1956) shall continue to be proceeded with as if such inspection, investigation or inquiry has been ordered under the corresponding provisions of this Act; and

(k) any matter filed with the Registrar, Regional Director or the Central Government under the Companies Act, 1956 (1 of 1956) before the commencement of this Act and not fully addressed at that time shall be concluded by the Registrar, Regional Director or the Central Government, as the case may be, in terms of that Act, despite its repeal.

12 (1) of SEBI Act, 1992

Section 12(1) of the SEBI Act states that: "No... trustee of trust deed ... shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in

accordance with the regulations made under this Act". Further, Regulation 7 of SEBI (Debenture Trustees) Regulations, 1993 ("Debenture Trustees Regulations"), provides that: "no person should act as a debenture trustee unless he is either –

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

SEBI (Issue and Listing of Debt Securities) Regulations, 2008: (hereinafter referred to as SEBI ILDS Regulations 2008)

- i. Regulation 4(2)(a) – Application for listing of debt securities
- ii. Regulation 4(2)(b) – In-principle approval for listing of debt securities
- iii. Regulation 4(2)(c) – Requirement of Credit rating
- iv. Regulation 4(2)(d) – Dematerialization of debt securities
- v. Regulation 4(4) – Appointment of Debenture Trustee
- vi. Regulation 5(2)(b) – Disclosure requirements in the Offer Document
- vii. Regulation 6 – Filing of draft Offer Document
- viii. Regulation 7 – Mode of disclosure of Offer Document
- ix. Regulation 8 – Advertisements for Public Issues
- x. Regulation 9 – Abridged Prospectus and application forms
- xi. Regulation 12 – Minimum subscription
- xii. Regulation 14 – Prohibition of mis-statements in the Offer Document
- xiii. Regulation 15 – Trust Deed
- xiv. Regulation 19 – Mandatory Listing
- xv. Regulation 26 – Obligations of the Issuer, etc.

Regulations are reproduced below:

General Conditions

4. (1) No issuer shall make any public issue of debt securities if as on the date of filing of draft offer document or final offer document as provided in these regulations: (a) the issuer or the person in control of the issuer or its promoter or its director is restrained or prohibited or debarred by the Board from accessing the securities market or dealing in securities; or (b) the issuer or any of its promoters or directors is a wilful defaulter or it is in default of payment of interest or repayment of principal amount in respect of debt securities issued by it to the public, if any, for a period of more than six months. (2) No issuer shall make a public issue of debt securities unless following conditions are satisfied, as on the date of filing of draft offer document and final offer document as provided in these regulations, (a) it has made an application to one or more recognized stock exchanges for listing of such securities therein:

Provided that where the application is made to more than one recognized stock exchanges, the issuer shall choose one of them as the designated stock exchange: Provided further that where any of such stock exchanges have nationwide trading terminals, the issuer shall choose one of them as the designated stock exchange;

Explanation: For any subsequent public issue, the issuer may choose a different stock exchange as a designated stock exchange subject to the requirements of this regulation. (b) it has obtained in -principle approval for listing of its debt securities on the recognized stock exchanges where the application for listing has been made; (c) credit rating has been obtained from at least one credit rating agency registered with the Board and is disclosed in the offer document: Provided that where credit ratings are obtained from more than one credit rating agencies, all the ratings, including the unaccepted ratings, shall be disclosed in the offer document; (d) it has entered into an arrangement with a depository registered with the Board for dematerialization of the debt securities that are proposed to be issued to the public, in accordance with the Depositories Act, 1996 and regulations made thereunder. (3) The issuer shall appoint one or more merchant bankers registered with the Board at least one of whom shall be a lead merchant banker. (4) The issuer shall appoint one or more debenture trustees in accordance with the provisions of Section 71 of the Companies Act, 2013 and Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993. (5) The issuer shall not issue debt securities for providing loan to or acquisition of shares of any person who is part of the same group or who is under the same management. (6) Explanation: For the purposes of sub-regulation (5),- (a) two persons shall be deemed to be "part of the same group" if they belong to the same group within the meaning of clause (ef) of section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) or if they own "interconnected undertakings" within the meaning of clause (g) of section 2 of that Act; (b) the expression "under the same management" shall have the meaning derived from sub-section (1B) of section 370 of the Companies Act, 1956.

Disclosures in the offer document-

5. (1) The offer document shall contain all material disclosures which are necessary for the subscribers of the debt securities to take an informed investment decision. (2) Without prejudice to the generality of sub-regulation (1), the issuer and the lead merchant banker shall ensure that the offer document contains the following: (a) disclosures specified in Companies Act, 2013 and Rules prescribed thereunder; (b) disclosure specified in Schedule I of these regulations; (c) additional disclosures as may be specified by the Board. Explanation: For the purpose of this regulation, "material" means anything which is likely to impact an investors' investment decision.

Filing of draft offer document-

6. (1) No issuer shall make a public issue of debt securities unless a draft offer document has been filed with the designated stock exchange through the lead merchant banker (2) The draft offer document filed with the designated stock exchange shall be made public by posting the same on the website of the designated stock exchange for seeking public comments for a period of seven working days from the date of filing the draft offer document with such exchange. (3) The draft offer document may also be displayed on the website of the issuer, merchant bankers and the stock exchanges where the debt securities are proposed to be listed. (4) The lead merchant banker shall ensure that the draft offer document clearly specifies the names and contact particulars of the compliance officer of the lead merchant banker and the issuer including the postal and email address, telephone and fax numbers. (5) The Lead Merchant Banker shall ensure that all comments received on the draft offer document are suitably addressed prior to the filing of the offer document with the Registrar of Companies. (6) A copy of draft and final offer document shall also be forwarded to the Board for its records,

along with regulatory fees as specified in Schedule V simultaneously with filing of these documents with designated stock exchange. (7) The lead merchant banker shall, prior to filing of the offer document with the Registrar of Companies, furnish to the Board a due diligence certificate as per Schedule II of these regulations. (8) The debenture trustee shall, prior to the opening of the public issue, furnish to the Board a due diligence certificate as per Schedule III of these regulations.

Mode of Disclosure of Offer Document-

7. (1) The draft and final offer document shall be displayed on the websites of stock exchanges and shall be available for download in PDF / HTML formats. (2) The offer document shall be filed with the designated stock exchange, simultaneously with filing thereof with the Registrar of Companies, for dissemination on its website prior to the opening of the issue. (3) Where any person makes a request for a physical copy of the offer document, the same shall be provided to him by the issuer or lead merchant banker.

Advertisements for Public issues

8. (1) The issuer shall make an advertisement in an national daily with wide circulation, on or before the issue opening date and such advertisement shall, amongst other things, contain the disclosures as per Schedule IV. (2) No issuer shall issue an advertisement which is misleading in material particular or which contains any information in a distorted manner or which is manipulative or deceptive. (3) The advertisement shall be truthful, fair and clear and shall not contain a statement, promise or forecast which is untrue or misleading. (4) Any advertisement issued by the issuer shall not contain any matters which are extraneous to the contents of the offer document. (5) The advertisement shall urge the investors to invest only on the basis of information contained in the offer document. (6) Any corporate or product advertisement issued by the issuer during the subscription period shall not make any reference to the issue of debt securities or be used for solicitation.

Abridged Prospectus and application forms-

9. (1) The issuer and lead merchant banker shall ensure that: (a) every application form issued by the issuer is accompanied by a copy of the abridged prospectus; (b) the abridged prospectus shall not contain matters which are extraneous to the contents of the prospectus; (c) adequate space shall be provided in the application form to enable the investors to fill in various details like name, address, etc. (2) The issuer may provide the facility for subscription of application in electronic mode.

Minimum subscription

12. (1) The issuer may decide the amount of minimum subscription which it seeks to raise by issue of debt securities and disclose the same in the offer document. (2) In the event of non-receipt of minimum subscription all application moneys received in the public issue shall be refunded forthwith to the applicants.

Prohibitions of mis-statements in the offer document

14. (1) The offer document shall not omit disclosure of any material fact which may make the statements made therein, in light of the circumstances under which they are made, misleading. (2) The offer document or abridged prospectus or any advertisement issued by an issuer in connection with a public issue of debt securities shall not contain any false or misleading statement

Trust Deed

15. (1) A trust deed for securing the issue of debt securities shall be executed by the issuer in favour of the debenture trustee within three months of the closure of the issue.

(1A) Where an issuer fails to execute the trust deed within the period specified in the sub-regulation (1), without prejudice to any liability arising on account of violation of the provisions of the Act and these Regulations, the issuer shall also pay interest of at least two percent per annum to the debenture holder, over and above the agreed coupon rate, till the execution of the trust deed. (1B) A clause stipulating the requirement under sub-regulation (1A) shall form part of the Trust Deed and also be disclosed in the Offer Document. (2) Every debenture trustee shall amongst other matters, accept the trust deeds which shall contain the matters as prescribed under section 71 of Companies Act, 2013 and Form No. SH.12 of the Companies (Share Capital and Debentures) Rules, 2014. Such trust deed shall consist of two parts: (a) Part A containing statutory/ standard information pertaining to the debt issue. (b) Part B containing details specific to the particular debt issue. (3) The trust deed shall not contain a clause which has the effect of – (i) limiting or extinguishing the obligations and liabilities of the debenture trustees or the issuer in relation to any rights or interests of the investors; (ii) limiting or restricting or waiving the provisions of the Act, these regulations and circulars or guidelines issued by the Board; (iii). indemnifying the debenture trustees or the issuer for loss or damage caused by their act of negligence or commission or omission.

Mandatory listing

19. (1) An issuer desirous of making an offer of debt securities to the public shall make an application for listing to one or more recognized stock exchanges in terms of sub-section (1) and sub-section (2) of section 40 of the Companies Act, 2013. (2) The issuer shall comply with conditions of listing of such debt securities as specified in the Listing Agreement with the stock exchange where such debt securities are sought to be listed. (3) Where the issuer has disclosed the intention to seek listing of debt securities issued on private placement basis, the issuer shall forward the listing application along with the disclosures specified in Schedule I to the recognized stock exchange within fifteen days from the date of allotment of such debt securities.

Obligations of the Issuer, Lead Merchant Banker, etc.

26. (1) The issuer shall disclose all the material facts in the offer documents issued or distributed to the public and shall ensure that all the disclosures made in the offer document are true, fair and adequate and there is no mis-leading or untrue statements or mis-statement in the offer document. (2) The Merchant Banker shall verify and confirm that the disclosures made in the offer documents are true, fair and adequate and ensure that the issuer is in compliance with these regulations as well as all transaction specific disclosures required in Schedule I of these regulations and the Companies Act, 2013 and the Rules made thereunder. (3) The issuer shall treat the applicants in a public issue of debt securities in a fair and equitable manner as per the

procedures as may be specified by the Board. (4) The intermediaries shall be responsible for the due diligence in respect of assignments undertaken by them in respect of issue, offer and distribution of securities to the public. (5) No person shall employ any device, scheme or artifice to defraud in connection with issue or subscription or distribution of debt securities which are listed or proposed to be listed on a recognized stock exchange. (6) The issuer and the merchant banker shall ensure that the security created to secure the debt securities is adequate to ensure 100% asset cover for the debt securities. (7) The issuer shall create a recovery expense fund in the manner as maybe specified by the Board from time to time and inform the Debenture Trustee about the same

SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021

Repeal and Savings

59.(1) The Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 and the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 shall stand repealed from the date on which these regulations come to force.

(2) Notwithstanding such repeal:

(a) anything done or any action taken or purported to have been done or taken including observation made in respect of any draft offer document, any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations, prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

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14. Noticees No. 1 to 20 are hereby called upon to show cause as to why appropriate direction(s) under Sections 11(1) and 11B(1) of SEBI Act, 1992 including direction to refund monies collected by SAPL through offer of NCDs and direction for restraint and prohibition from accessing securities market, be not issued against them.

15. The reply of the Noticees, if any, should reach the undersigned, at the address given below and at vikas@sebi.gov.in and gunjanb@sebi.gov.in within 21 days from the date of receipt of this notice, failing which it shall be construed that Noticees have no reply to submit and SEBI shall proceed with the matter on the basis of documents available on record.

Address: Shri Vikas S. S., General Manager

SEBI Eastern Regional Office

L&T Chambers, 3rd Floor, 16 Camac Street,

Kolkata - 700017, West Bengal

Tel. Board: +91-33-23023000.



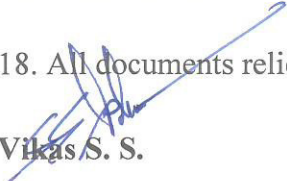
Fax : +91-33-22874307

E-mail : sebiero@sebi.gov.in, gunjanb@sebi.gov.in

16. If personal hearing before the Quasi-Judicial Authority, SEBI is desired, it shall be indicated by the Noticee(s) accordingly. The Noticee(s) are advised to keep SEBI informed about the change in their correspondence address, if any, till the proceedings in the extant matter are complete.

17. This notice is without prejudice to the rights of SEBI to issue a supplementary notice and/or to initiate any other proceedings/actions for the aforesaid violations in terms of the SEBI Act and rules or regulations made there under.

18. All documents relied upon in the notice have been annexed as per the list of enclosures.


Vikas S. S.

General Manager

Enclosures:

Annexure No.	Particulars
1.	Copy of MCA reference letter dated 24/06/2022
2.	Copy of ROC – Kolkata letter providing director details of SAPL
3.	Copies of letters sent to SAPL and its directors (February 06 & 08, 2023)
4.	Copy of Reply from Shri Bhola Prasad Vishwakarma dated 22/02/2023
5.	Copy of MCA Inspection Report with relevant extracts
6.	Copy of Debenture Trust Deed dated 02/06/2010
7.	Copy of Debenture Trust Deed dated 25/04/2012
8.	Copy of SAPL letter dated 12/11/2012

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