BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ORDER/SM/AD/2021-22/13866]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of

Fortis Healthcare Holdings Private Limited

(PAN:AAACF0987E)

In the matter of Fortis Healthcare Holdings Private Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) was in receipt of references from the Debenture Trustees of Non Convertible Debentures (hereinafter referred to as '**NCDs**') issued by Fortis Healthcare Holdings Private Limited (hereinafter referred to as '**Noticee/ Company/ Fortis'**), alleging that the company had not provided any information on the payment of interest for three ISINs (i.e. INE277L07028, INE277L07101 & INE277L07119).

2. Thereafter, SEBI conducted an examination to ascertain the compliance of relevant regulations pertaining to the disclosures/ filings with stock exchanges by Fortis as required under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as '**LODR Regulations**') for the Financial Years 2017-18, 2018-19 and 2019-20 (up to

September 30, 2019) (hereinafter referred to as '**Examination Period**') in respect of the NCDs issued by Fortis.

3. During the examination, SEBI observed that the Noticee had issued seven series of NCDs. The NCDs were listed with the Bombay Stock Exchange (hereinafter referred to as '**BSE**').

4. The details of the NCDs issued by the Noticee are summarized hereunder :-

Table 1: Particulars of NCD issues by Fortis Healthcare Holdings Private Limited

ISIN	INE277L08034	INE277L07028	INE277L07036	INE277L07051	INE277L07093	INE277L07127	INE277L07135
Amount of NCDs issued (Rs. in Cr.)	285	12.5	12.5	5	150	100	50
Privately placed/ Public issue	Privately Placed	Privately Placed	Privately Placed	Privately Placed	Privately Placed	Privately Placed	Privately Placed
Date of Issuance (Allotment)	01/04/15	25/05/16	06/09/16	11/11/16	29/08/17	08/09/17	11/09/17
Date of Maturity	30/09/20	30/05/19	28/08/19	20/12/19	14/08/18	30/08/18	03/09/18
Frequency of Interest Payment	Cumulative	Annually	Annually	Annually	Quarterly	Quarterly	Quarterly
No. of Investors	2	1	29	29	3	2	2
Name of Debenture Trustee	Milestone Trusteeship Services Private Limited	Milestone Trusteeship Services private Limited	Axis Trustee Services Limited	Axis Trustee Services Limited	IDBI Trusteeship Services Limited	IDBI Trusteeship Services Limited	IDBI Trusteeship Services Limited

5. Based on the examination carried out, SEBI observed certain non-compliances of LODR Regulations by Noticee and therefore, initiated adjudication proceedings against Noticee under :

5.1. Section 15A(b) of SEBI Act, for the alleged violation of Regulations 7(3), 13(4), 50(1), 50(3), 51, 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 54(2), 56(1), 57(1), 60(1) and 60(2) of the LODR Regulations and;

5.2. Section 15HB of SEBI Act, for the alleged violation of Regulations 6(1), 9, 13 (1), 50(2), 53, 54(1), 55, 56(2), 57(2), 58, 59 and 62 of the LODR Regulations, in respect of the NCDs issued by Fortis.

APPOINTMENT OF ADJUDICATING OFFICER

6. Vide order dated December 29, 2020, SEBI appointed the undersigned as the Adjudicating Officer under Section 19 of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') read with Section 15I(1) and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') to inquire into and adjudge under the respective provisions of Sections 15A(b) and 15HB of SEBI Act, the aforesaid alleged violations by Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

7. A Show Cause Notice dated January 19, 2021 (hereinafter being referred to as the "**SCN**") was issued to Noticee in terms of Rule 4 of Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticee and penalty, if any, should not be imposed upon Noticee under the provisions of Section 15A (b), for violation of Regulations 7(3), 13(4), 50(1), 50(3), 51, 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 54(2), 56(1), 57(1), 60(1) and 60(2) of the LODR Regulations and under the provisions of Section 15HB of SEBI Act, for the violation of Regulations 6(1), 9, 13 (1), 50(2), 53, 54(1), 55, 56(2), 57(2), 58, 59 and 62 of the LODR Regulations, alleged to have been committed by Noticee.

8. The SCN was sent via Speed Post Acknowledgement Due ('**SPAD**') to the last known address of Noticee as well as email dated January 20, 2021 and was duly served upon it. Noticee was granted time of fifteen (15) days to file their reply to the SCN. However, no reply to the SCN was received. Thereafter, in the interest of natural justice, Noticee was granted an opportunity of personal hearing in the matter before the undersigned on March 22, 2021, vide hearing notice dated March 09, 2021 served on Noticee through digitally signed email dated March 10, 2021 as well as through SPAD. Vide aforesaid email, the Noticee was also advised to file his reply/ submissions in respect of the SCN, if any. However, the Noticee neither filed any reply to the SCN nor attended the scheduled hearing.

9. In the interest of the natural justice, vide hearing notice dated June 01, 2021, Noticee was granted another opportunity of personal hearing before the undersigned on June 11, 2021. The aforesaid hearing notice was sent through digitally signed email dated June 02, 2021 and was duly served upon Noticee. Vide the aforesaid notice also, Noticee was advised to file his reply/ submissions, if any, in respect of the SCN on or before date of hearing. However, Noticee did not submit any reply to the SCN and also did not avail of the opportunity of the aforesaid hearing.

10. In view of the above, I am compelled to proceed *ex parte* in the matter against Noticee. I am of the view that principles of natural justice have been complied with since sufficient opportunity has been provided to the Noticee to submit his reply and to appear for personal hearing. I, therefore, am of the view that the Noticee has nothing to submit and in terms of rule 4(7) of the Adjudication Rules, the matter can be proceeded ex-parte on the basis of material available on record. Therefore, the present proceedings against the Noticee are undertaken *ex-parte* on the basis of available documents and information.

CONSIDERATION OF ISSUES AND FINDINGS

11. I have carefully perused the charges levelled against Noticee in the SCN and the material available on record. The issues that arise for consideration in the present case are:

I Whether Noticee has violated Regulations 6(1), 7(3), 9, 13 (1), 13(4), 50(1), 50(2), 50(3), 51, 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 53, 54(1),54(2), 55, 56(2), 56(1), 57(1), 57(2), 58, 59, 60(1), 60(2) and 62 of the LODR Regulations?

II Do the violations, if any, attract monetary penalty under Sections 15A(b) and 15 HB of the SEBI Act?

III If so, what should be the quantum of penalty?

12. Before moving forward, it is pertinent to refer to the relevant provisions of the LODR Regulations which are reproduced as under:

Regulation 6 (1): *A listed entity shall appoint a qualified company secretary as the compliance officer*

Regulation 7(3): *The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorised representative of the share transfer agent, wherever applicable, within one month of end of each half of the financial year, certifying compliance with the requirements of sub- regulation (2).*

Regulation 9: ***Preservation of documents.***

9. The listed entity shall have a policy for preservation of documents, approved by its board of directors, classifying them in at least two categories as follows-

(a) documents whose preservation shall be permanent in nature ;

(b) documents with preservation period of not less than eight years after completion of the relevant transactions:

Provided that the listed entity may keep documents specified in clauses (a) and (b) in electronic mode.

Regulation 13: ***Grievance Redressal Mechanism***

(1) The listed entity shall ensure that adequate steps are taken for expeditious redressal of investor complaints.

(2) The listed entity shall ensure that it is registered on the SCORES platform or such other electronic platform or system of the Board as shall be mandated from time to time, in order to handle investor complaints electronically in the manner specified by the Board.

(3) The listed entity shall file with the recognised stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.

(4) The statement as specified in sub-regulation (3) shall be placed, on quarterly basis, before the board of directors of the listed entity.

Regulation 50: ***Intimation to stock exchange(s)***

(1) The listed entity shall give prior intimation to the stock exchange(s) at least eleven working days before the date on and from which the interest on debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable.

(2) The listed entity shall intimate the stock exchange(s), its intention to raise funds through new non-convertible debt securities or non-convertible redeemable preference shares it proposes to list either through a public issue or on private placement basis, prior to issuance of such securities:

Provided that the above intimation may be given prior to the meeting of board of directors wherein the proposal to raise funds through new non convertible debt securities or non-convertible redeemable preference shares shall be considered.

(3) The listed entity shall intimate to the stock exchange(s), at least two working days in advance, excluding the date of the intimation and date of the meeting, regarding the meeting of its board of directors, at which the recommendation or declaration of issue of non-convertible debt securities or any other matter affecting the rights or interests of holders of non convertible debt securities or non convertible redeemable preference shares is proposed to be considered.

Regulation 51: Disclosure of information having bearing on performance/operation of listed entity and/or price sensitive information.

(1) The listed entity shall promptly inform the stock exchange(s) of all information having bearing on the performance/operation of the listed entity, price sensitive information or any action that shall affect payment of interest or dividend of

non-convertible preference shares or redemption of non convertible debt securities or redeemable preference shares

Explanation.- The expression 'promptly inform', shall imply that the stock exchange must be informed as soon as practically possible and without any delay and that the information shall be given first to the stock exchange(s) before providing the same to any third party.

(2) Without prejudice to the generality of sub-regulation(1), the listed entity who has issued or is issuing nonconvertible debt securities and/or non-convertible redeemable preference shares shall make disclosures as specified in Part B of Schedule III.

Regulation 52(1): *The listed entity shall prepare and submit un-audited or audited financial results on a half yearly basis in the format as specified by the Board within forty five days from the end of the half year to the recognised stock exchange(s).*

Provided that in case of entities which have listed their equity shares and debt securities, a copy of the financial results submitted to stock exchanges shall be provided to Debenture Trustees on the same day the information is submitted to stock exchanges.

Regulation 52(2): *The listed entity shall comply with following requirements with respect to preparation, approval, authentication and publication of annual and half yearly* :

(a) Un-audited financial results shall be accompanied by limited review report prepared by the statutory auditors of the listed entity or in case of

public sector undertakings, by any practising Chartered Accountant, in the format as specified by the Board:

Provided that if the listed entity intimates in advance to the stock exchange(s) that it shall submit to the stock exchange(s) its annual audited results within sixty days from the end of the financial year, un-audited financial results for the last half year accompanied by limited review report by the auditors need not be submitted to stock exchange(s).

(b) Half-yearly results shall be taken on record by the board of directors and signed by the managing director / executive director.

(c)The audited results for the year shall be submitted to the recognised stock exchange(s) in the same format as is applicable for half-yearly financial results.

(d) If the listed entity opts to submit un-audited financial results for the last half year accompanied by limited review report by the auditors, it shall also submit audited financial results for the entire financial year, as soon as they are approved by the board of directors.

(e)Modified opinion(s) in audit reports that have a bearing on the interest payment/ dividend payment pertaining to non-convertible redeemable debentures / redemption or principal repayment capacity of the listed entity shall be appropriately and adequately addressed by the board of directors while publishing the accounts for the said period.

Regulation 52(4): *The listed entity, while submitting half yearly/ annual financial results, shall disclose the following line items along with the financial results*

a) *credit rating and change in credit rating (if any);*

b) *asset cover available, in case of non convertible debt securities;*

c) *debt –equity ratio;*

d) *previous due date for the payment of interest/ dividend for non-convertible redeemable preference shares/ repayment of principal of non-convertible preference shares /non convertible debt securities and whether the same has been paid or not; and,*

e) *next due date for the payment of interest/ dividend of non-convertible preference shares /principal along with the amount of interest/ dividend of non-convertible preference shares payable and the redemption amount;"*

f) *debt service coverage ratio;*

g) *interest service coverage ratio;*

h) *outstanding redeemable preference shares (quantity and value);*

i) *capital redemption reserve/debenture redemption reserve;*

j) *net worth;*

k) *net profit after tax;*

l) *earnings per share:*

Provided that the requirement of disclosures of debt service coverage ratio, asset cover and interest service coverage ratio shall not be applicable for banks or non banking financial companies/housing finance companies registered with the Reserve Bank of India

Regulation 52 (5): *The listed entity shall, within seven working days from the date of submission of the information required under sub-regulation (4), submit to stock exchange(s), a certificate signed by debenture trustee that it has taken note of the contents*

Regulation 52(7): *The listed entity shall submit to the stock exchange on a half yearly basis along with the half yearly financial results, a statement indicating material deviations, if any, in the use of proceeds of issue of non convertible debt securities and non-convertible redeemable preference shares from the objects stated in the offer document.*

Regulation 52(8): *The listed entity shall, within two calendar days of the conclusion of the meeting of the board of directors, publish the financial results and statement referred to in sub-regulation (4), in at least one English national daily newspaper circulating in the whole or substantially the whole of India.*

Regulation 53*: The annual report of the listed entity shall contain disclosures as specified in Companies Act, 2013 along with the following:*

(a) audited financial statements i.e. balance sheets, profit and loss accounts etc

(b) cash flow statement presented only under the indirect method as prescribed in accounting Standard-3/ Indian Accounting Standard 7, mandated under Section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or by the Institute of Chartered Accountants of India, whichever is applicable;

(c) auditors report;

(d) directors report;

(e) name of the debenture trustees with full contact details ;

(f) related party disclosures as specified in Para A of Schedule V

Regulation 54(1): *In respect of its listed non-convertible debt securities, the listed entity shall maintain hundred percent. asset cover sufficient to discharge the principal amount at all times for the non-convertible debt securities issued.*

Regulation 54(2): *The listed entity shall disclose to the stock exchange in quarterly, half-yearly, year-to-date and annual financial statements, as applicable, the extent and nature of security created and maintained with respect to its secured listed non-convertible debt securities.*

Regulation 55*: Each rating obtained by the listed entity with respect to non-convertible debt securities shall be reviewed at least once a year by a credit rating agency registered by the Board.*

Regulation 56(1)*: The listed entity shall forward the following to the debenture trustee promptly:*

a) a copy of the annual report at the same time as it is issued along with a copy of certificate from the listed entity's auditors in respect of utilisationof funds during the implementation period of the project for which the funds have been raised:

Provided that in the case of debentures or preference shares issued for financing working capital or general corporate purposes or for capital raising purposes the copy of the auditor's certificate may be submitted at the end of each financial year till the funds have been fully utilised or the purpose for which these funds were intended has been achieved.

b) a copy of all notices, resolutionsand circulars relating to-

i. new issue of non convertible debt securities at the same time as they are sent to shareholders/ holders of non convertible debt securities

ii. *the meetings of holders of non-convertible debt securities at the same time as they are sent to the holders of non convertible debt securities or advertised in the media including those relating to proceedings of the meetings;*

c) *intimations regarding :*

(i) *any revision in the rating;*

(ii) *any default in timely payment of interest or redemption or both in respect of the non convertible debt securities;*

(iii) *failure to create charge on the assets;*

d) *a half-yearly certificate regarding maintenance of hundred percent. asset cover in respect of listed non convertibledebt securities, by either a practicing company secretary or a practicing chartered accountant, along with the half yearly financial results:*

Provided that submission of such half yearly certificates is not applicable in cases where a listed entity is a bank or non banking financial companies registered with Reserve Bank of India or where bonds are secured by a Government guarantee.

Regulation 56(2): *The listed entity shall forward to the debenture trustee any such information sought and provide access to relevant books of accounts as required by the debenture trustee.*

Regulation 57(1): *The listed entity shall submit a certificate to the stock exchange within two days of the interest or principal or both becoming due that it has made timely payment of interests or principal obligations or both in respect of the non convertible debt securities*

Regulation 57(2): *The listed entity shall provide an undertaking to the stock exchange(s) on annual basis stating that all documents and intimations required to be submitted to Debenture Trustees in terms of Trust Deed and Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 have been complied with.*

Regulation 58: ***Documents and information to holders of non -convertible debt securities and non convertible preference shares***

58.(1) The listed entity shall send the following documents:

(a) Soft copies of full annual reports to all the holders of non convertible preference share who have registered their email address(es) for the purpose;

(b)Hard copy of statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and rules made thereunder to those holders of non convertible preference shares who have not so registered;

(c)Hard copies of full annual reports to those holders of non-convertible debt securities non-convertible preference shares, who request for the same;

(d) Half yearly communication as specified in sub-regulation (4) and (5) of regulation 52, to holders of non convertible debt securities and non convertible preference shares;

(2)The listed entity shall send the notice of all meetings of holders of non convertible debt securities and holders of non-convertible redeemable preference shares specifically stating that the provisions for appointment of proxy as mentioned in Section 105 of the Companies Act, 2013, shall be applicable for such meeting.

(3)The listed entity shall send proxy forms to holders of non convertible debt securities and non-convertible redeemable preference shares which shall be

worded in such a manner that holders of these securities may vote either for or against each resolution.

Regulation 59: Structure of nonconvertible debt securities and non convertible redeemable preference shares.

59.(1) The listed entity shall not make material modification without prior approval of the stock exchange(s)where the non convertible debt securities or non-convertible redeemable preference shares, as applicable, are listed, to:

(a)the structure of the debenture in terms of coupon, conversion, redemption, or otherwise.

(b)the structure of the non-convertible redeemable preference shares in terms of dividend of non-convertible preference shares payable, conversion, redemption, or otherwise.

(2) The approval of the stock exchange referred to in sub-regulation (1) shall be made only after:

(a)approval of the board of directors and the debenture trustee "in case of non-convertible debt securities" and

(b)after complying with the provisions of Companies Act, 2013 including approval of the consent of requisite majority of holders of that class of securities.

Regulation 60***: Record Date***

(1) The listed entity shall fix a record date for purposes of payment of interest, dividend and payment of redemption or repayment amount or for such other purposes as specified by the stock exchange.

(2) The listed entity shall give notice in advance of atleast seven working days(excluding the date of intimation and the record date) to the recognised stock exchange(s) of the record date or of as many days as the stock exchange(s) may agree to or require specifying the purpose of the record date.

Regulation 62: ***Website***

(1)*The listed entity shall maintain a functional website containing the following information about the listed entity:-*

(a)details of its business;

(b) financial information including complete copy of the annual report including balance sheet, profit and loss account, directors report etc;

(c) contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances;

(d)email address for grievance redressal and other relevant details;

(e)name of the debenture trustees with full contact details;

(f)the information, report, notices, call letters, circulars, proceedings, etc concerning non-convertible redeemable preference shares or non convertible debt securities;

(g)all information and reports including compliance reports filed by the listed entity;

(h) information with respect to the following events :

(i) default by issuer to pay interest on redemption amount;

(ii) failure to create a charge on the assets;

(iii) revision of rating assigned to the non convertible debt securities.

(2) The listed entity may also issue a press release with respect to the events specified in sub regulation (1).

(3) The listed entity shall ensure that the contents of the website are correct and updated at any given point of time.

Issue I: Whether Noticee has violated Regulations 6(1), 7(3), 9, 13 (1), 13(4), 50(1), 50(2), 50(3), 51, 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 53, 54(1),54(2), 55, 56(1),56(2), 57(1), 57(2), 58, 59, 60(1), 60(2) and 62 of the LODR Regulations?

13. I now proceed to deal with the aforementioned allegations leveled against Noticee in the SCN, and record my observations/ findings in the subsequent paragraphs.

14. In terms of Regulation 6(1) of LODR Regulations, Noticee is required to appoint a qualified company secretary as the compliance officer of the Company, which allegedly Noticee failed to comply with. In this regard, I find that in reply to SEBI's query, BSE vide email dated February 07, 2020 informed SEBI that the company made a disclosure for resignation of compliance officer on February 22, 2018. However, it is observed that there is nothing on record to show that the company made any announcement for appointment of compliance officer thereafter. Hence, in absence of any evidence to the contrary, I find that the company failed to appoint a qualified company secretary as its compliance officer and therefore, the allegation that the company has not complied with Regulation 6(1) of LODR Regulations stands established.

15. In terms of Regulation 7(3) of LODR Regulations, Noticee is required to submit a compliance certificate to stock exchange signed by the Compliance Officer and representative of the share transfer agent within one month of end of each half of financial year, regarding maintenance of all activities in relation to both physical and electronic share transfer facility either in house or by Registrar to an issue and share transfer agent registered with the Board. It was observed that the Noticee had not submitted the compliance certificate for other half year

ended, which falls within the Examination period, as required under this regulation, to BSE. Hence, it has been alleged that the company has not complied with Regulation 7(3) of LODR Regulations.

16. In this regard, I note from available records that BSE vide email dated February 07, 2020 informed SEBI that the company submitted the compliance certificate only for the half year ended March 31, 2018. I observe that the Noticee has not submitted the compliance certificate for other half year ended, which falls within the Examination period, as required under this regulation to BSE. Hence, the allegation that the company has not complied with Regulation 7(3) of LODR Regulations, stands established.

17. In terms of Regulation 9 of LODR Regulations, Noticee is required to have a policy for preservation of documents, approved by its board of directors. It has been alleged that the company has violated the aforesaid provision of LODR Regulations since no confirmation has been received from the company with respect to compliance of the said regulation. Further, in terms of Regulation 13(1) of LODR Regulations, Noticee is required to ensure that adequate steps are taken for expeditious redressal of investor complaints. In terms of Regulation 13(3) of LODR Regulations, the Noticee is required to submit the statement on shareholder' complaints on quarterly basis within 21 days of end of quarter. Further, in terms of Regulation 13(4) of LODR Regulations, the Noticee is required to place the statement as specified in regulation 13(3), on quarterly basis, before the board of directors of listed entity. It was observed that the Noticee had failed to furnish any information in this regard. Hence, it has been alleged that the company has not complied with Regulations 9, 13(1), and 13(4) of LODR Regulations.

18. In this regard, I do not find any evidence placed on record to support the aforesaid charges levelled against Noticee. Therefore, I am of the view that the allegation that the company has not complied with Regulations 9, 13(1) and 13(4) of LODR Regulations, does not stand established.

19. In terms of Regulation 50(1) of LODR Regulations, Noticee is required to intimate to the stock exchange(s), at least eleven working days before the date on and from which the interest on debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable. Further, in terms of Regulation 50(2) of LODR Regulations, Noticee is required to intimate to the stock exchange(s), its intention to raise funds through new non-convertible debt securities or non-convertible redeemable preference shares, it proposes to list either through a public issue or on private placement basis, prior to issuance of such securities. It was observed from the reply of BSE that the company has not submitted the information under these aforesaid regulations. Hence, it has been alleged that the company has not complied with Regulations 50(1) and 50(2) of LODR Regulations.

20. In this regard, I observe from records that BSE vide email dated February 07, 2020 informed SEBI that Noticee failed to submit the information required under this provision. Therefore, in absence of any evidence to the contrary, I find that the allegation that there was default by Noticee in regard to its compliance with Regulations 50(1) and 50(2) of LODR Regulations, stands established.

21. In terms of Regulation 50(3) of LODR Regulations, Noticee is required to intimate to the stock exchange(s), at least two working days in advance, regarding the meeting of its board of directors, at which the recommendation or declaration of issue of non- convertible debt securities or any other matter

affecting the rights or interests of holders of non- convertible debt securities or non-convertible redeemable preference shares is proposed to be considered. It was observed from the reply of BSE that the company had not submitted the information under this regulation. Hence, it has been alleged that the company has not complied with Regulation 50(3) of LODR Regulations. In this regard, I observe from records that BSE vide email dated February 07, 2020 informed SEBI that Noticee failed to submit the information required under this provision. Therefore, in absence of any evidence to the contrary, I find that the allegation that Noticee violated Regulation 50(3) of LODR Regulations, stands established.

22. In terms of Regulation 51 of LODR Regulations, the Noticee is required to promptly inform the stock exchange of all information or any action that shall affect payment of interest or redemption of NCDs as specified in Part B to schedule III of LODR Regulations. During the examination, BSE provided the list of the disclosures made by the Noticee, for the examination period, under this regulation. From the aforesaid list, it was observed that the disclosures are available only for period from April 13, 2017 to October 22, 2018 and no disclosures are made by the company for the remaining period. Hence, it has been alleged that the company has not complied with Regulation 51 of LODR Regulations.

23. In this regard, I observe from the records that BSE has informed SEBI about disclosures made by Noticee under Regulation 51 of LODR Regulations. However, I do not find any evidence corroborative of the fact that disclosures, other than those made by Noticee, were also warranted. Given the ambiguity of facts presented, I find that the allegation of violation of Regulation 51 of LODR Regulations by Noticee does not stand established.

24. In terms of Regulation 52(1) of LODR Regulations, Noticee is required to submit the financial results within forty five (45) days from the end of the half year. Further, in terms of Regulation 52(2) of LODR Regulations, Noticee is required to comply with certain requirements with respect to preparation, approval, authentication and publication of annual and half-yearly financial results. In terms of Regulation 52(4) of LODR Regulations, Noticee is required to disclose line items prescribed under Regulation 52(4) along with the half yearly/ annual financial results. In terms of Regulation 52(5) of LODR Regulations, Noticee is required to submit a Certificate signed by the Debenture Trustee taking note of the contents prescribed under regulation 52(4). In this regard, BSE informed that the company had submitted the financial result only for half year ended March 31, 2017. Thus, it has been alleged that Noticee had not submitted the financial results for half year ended September 30, 2017, March 31, 2018, September 30, 2018, March 31, 2019 and September 30, 2019. BSE further informed that Noticee had not submitted the information under the Regulation 52(2), 52(4) and 52(5) of LODR Regulations. Hence, it has been alleged that the company has not complied with Regulation 52(1), 52(2), 52(4) and 52(5) of LODR Regulations.

25. In this regard, a perusal of records show that BSE vide email dated February 7, 2020 informed SEBI of compliance of the aforesaid provisions of LODR Regulations by Noticee only for one quarter, i.e., for the quarter ended March 31, 2017. Therefore, in absence of any other evidence to the contrary, I find that the allegation of violation of Regulations 52(1), 52(2), 52(4) and 52(5) of LODR Regulations by Noticee stand established.

26. In terms of Regulation 52(7) of LODR Regulations, Noticee is required to submit a statement indicating material deviations, if any, in the use of proceeds along with the half yearly financial results. It was observed that the company had submitted the financial result only for half year ended March 31, 2017 and not for the complete examination period. Hence, it has been alleged that the company has not submitted the aforesaid statement. Therefore, it has been alleged that the company has not complied with Regulation 52(7) of LODR Regulations.

27. From the perusal of BSE's email dated February 7, 2020, I note that status of compliance shows "submitted" for four (4) of out of seven (7) series of NCDs issued by Noticee. The compliance status of remaining three (3) series are shown as "not submitted". In view of the foregoing, I find that the allegation that Noticee has violated Regulation 52(7) of LODR Regulations stands established.

28. In terms of Regulation 52(8) of LODR Regulations, Noticee is required to publish the financial results and statement in at least one English national daily newspaper, within two calendar days of the conclusion of the meeting of the board of directors. In terms of Regulation 53 of LODR Regulations, annual report of the listed entity shall include audited financial statements, cash flow statement, auditors report, director's report, details of debenture trustees, related party disclosures. As no information regarding compliance with the provisions of the aforesaid regulations had been provided by Noticee, it has been alleged that the company has not complied with Regulations 52(8) and 53 of LODR Regulations.

29. In this regard, I do not find any corroborative evidence placed on record to support the aforesaid charges levelled against Noticee. Therefore, I am of the

view that the allegation that Noticee has not complied with Regulations 52(8) and 53 of LODR Regulations, does not stand established.

30. In terms of Regulation 54(1), Noticee is required to maintain hundred percent asset cover to discharge the principal amount at all times for NCDs issued. Further, in terms of Regulation 54(2) disclose to the stock exchange in quarterly, half-yearly, year-to-date and annual financial statements as applicable, the extent and nature of security created and maintained with respect to secured listed NCDs in the financial statements. BSE informed that the company has not submitted the information under this regulation. As no information regarding compliance with the provision of this regulation has been provided by Noticee, it has been alleged that the company has not complied with Regulation 54(1) & (2) of LODR Regulations.

31. In this regard, I observe from BSE's email dated February 7, 2020 that with respect to disclosure under Regulation 54(2) of LODR Regulations, compliance has been done by Noticee under this regulation for only four (4) out of seven (7) series of NCDs issued by Noticee. Therefore, in absence of any other documentary evidence to the contrary, I find that the allegation of violation of Regulations 54(2) of LODR Regulations by Noticee stands established. Further, with regard to violation of Regulation 54(1) of LODR Regulations, I note that there is no corroborative evidence to substantiate the charge that Noticee failed to maintain hundred percent asset cover to discharge the principal amount at all times for NCDs issued. Therefore, I am of the view that allegation that Noticee had violated Regulation 54(1) of LODR Regulations does not stand established.

32. In terms of Regulation 55 of LODR Regulations, Noticee is required to get its securities reviewed by credit rating agency at least once a year. However, it is observed from the BSE reply dated February 07,2020 that the company has not submitted any information regarding the review of its securities by credit rating agency as mentioned in the aforesaid regulation. Therefore, it has been alleged that the company has not complied with Regulation 55 of LODR Regulations.

33. In this regard, I observe from records that BSE vide email dated February 07, 2020 informed SEBI that Noticee failed to submit the information required under this provision. Therefore, in absence of any evidence to the contrary, I find that the allegation that there was default by Noticee in regard to its compliance with Regulation 55 of LODR Regulations stands established.

34. In terms of Regulation 56(1) of LODR Regulations, the Noticee is required to submit certain document such as annual report, certification on utilization of funds, change in credit rating, half yearly assets cover certificate, copy of notices, resolutions etc. to debenture trustee promptly. Debenture Trustee vide email dated December 23, 2019 informed SEBI that Noticee had not submitted the information under this regulation. As no information has been provided by the company under this regulation, it has been alleged that the company has not complied with Regulation 56(1) of LODR Regulations.

35. In this respect, emails dated December 23, 2019 and June 18, 2020 from the Debenture Trustees, namely, IDBI Trusteeship Services Ltd (ITSL) and Milestone Trustee Service (Milestone), respectively, have been perused. I observe that while ITSL has confirmed that Noticee has complied with the aforesaid regulation for the financial years ended March 2017, March 2018 and March 2019, Milestone has stated that Noticee has not complied with the

aforesaid regulation. In view of the foregoing, I find that the allegation of violation of Regulation 56(1) of LODR Regulations by Noticee stands established.

36. In terms of Regulation 56(2) of LODR Regulations, Noticee is required to forward to the debenture trustee any such information sought and provide access to relevant books of accounts as required by the debenture trustee. Vide email dated July 02, 2020 and July 15, 2020, ITSL has informed that the Noticee had not informed it about the change in existing ISINs from INE277L07101 and INE277L07093 to INE277L07127 and INE277L07135, respectively. Hence, it has been alleged that the company has not complied with Regulation 56(2) of LODR Regulations.

37. In this regard, I observe from the emails dated July 02, 2020 and July 15, 2020 received from ITSL that Noticee had not informed it about the change in existing ISINs from INE277L07101 and INE277L07093 to INE277L07127 and INE277L07135, respectively despite repeated request for information by the Debenture Trustee to Noticee regarding the aforementioned ISINs. In view of the foregoing, I find that the allegation of violation of Regulation 56(2) of LODR Regulation stands established against Noticee.

38. In terms of Regulation 57(1) of LODR Regulations, Noticee is required to submit a certificate to the stock exchange within two days of the interest or principal or both becoming due, stating that it has made timely payment of interests or principal obligations or both in respect of the non-convertible debt securities. On the basis of available information, the ISIN wise compliance status under this regulation was observed as under:

a) **INE277L07028:** Frequency of interest payment on this ISIN is annual and the company had given certificate only in FY 2017. Further, it was observed that the company had also not submitted the certificate for payment of principal since maturity date of this ISIN is on May 30, 2019. Hence, it is alleged that the company has not complied with the provisions of this Regulations.

b) **INE277L07036:** Frequency of interest payment on this ISIN is annual and the company has given certificate only in FY 2017. Further, it is observed that the company has also not submitted the certificate for payment of principal since maturity date of this ISIN is on May 30, 2019. Hence, it is alleged that the company has not complied with the provisions of this Regulations.

c) **INE277L07051:** Frequency of interest payment on this ISIN is annual and it was observed that the company has given certificate only in FY 2017. Hence, it is alleged that the company has not complied with the provisions of this Regulations.

d) **INE277L07093:** Frequency of interest payment on this ISIN is quarterly and it was observed from BSE reply that the Noticee has not submitted the certificate for payment of interest to exchange as per frequency of interest payment (i.e. quarterly/ annually) durin g the examination period. Further, it is observed that the company has also not submitted the certificate for payment of principal, since maturity date of this ISIN is on August 14, 2018. Hence, it is alleged that the company has not complied with the provisions of this Regulations.

e) **INE277L07127:** Frequency of interest payment on this ISIN is quarterly and it was observed from BSE reply that the Noticee has not submitted the certificate for payment of interest to exchange as per frequency of interest payment (i.e. quarterly/ annually) during the examination period. Further, it is observed that the company has also not submitted the certificate for payment of principal since maturity date of this ISIN is on August 30, 2018. Hence, it is alleged that the company has not complied with the provisions of this Regulations.

f) **INE277L07135:** Frequency of interest payment on this ISIN is quarterly and it was observed from BSE reply that the Noticee has not submitted the certificate for payment of interest to exchange as per frequency of interest payment (i.e. quarterly/ annually) during the examination period. Further, it is observed that the company has also not submitted the certificate for payment of principal since maturity date of this ISIN is on September 03, 2018.

39. In view of the aforesaid, it has been alleged that Noticee has not complied with Regulation 57(1) of LODR Regulations for 6 ISINs.

40. In this regard, I observe from records that BSE vide email dated February 07, 2020 informed SEBI that Noticee had failed to submit required disclosures under regulation 57(1) of LODR Regulations. Therefore, from the material available on the record and in absence of any evidence to contrary, I find that the allegation that there was default by Noticee in regard to its compliance with Regulation 57(1) stands established.

41. In terms of Regulation 57(2) of LODR Regulations, Noticee is required to provide an undertaking to the stock exchange(s) on annual basis stating that all documents and intimations required to be submitted to Debenture Trustees in terms of Trust Deed and SEBI (Issue and Listing of Debt Securities) Regulations, 2008, have been complied with. It was observed from the BSE reply that the company has not submitted the information under this regulation. Hence, it has

been alleged that Noticee has not complied with Regulation 57(2) of LODR Regulations.

42. In this regard, I observe from the available records that BSE vide email dated February 07, 2020 informed SEBI that Noticee had failed to submit the information required under this provision. Therefore, in absence of any evidence to the contrary, I find that the allegation that there was default by Noticee in regard to its compliance with Regulations 57(2) of LODR Regulations, stands established.

43. In terms of Regulation 58 of LODR Regulations, Noticee is required to provide hard copies of Annual Reports to holders of NCDs, who requested for the same, notices of meetings etc. In terms of Regulation 60(1) of LODR Regulations, Noticee is required to fix a record date for purpose of payment of interest, dividend and payment of redemption or repayment amount or for such other purpose as specified by the stock exchange. As no information regarding compliance with the provisions of these regulations has been provided by the Noticee, it has been alleged that Noticee has not complied with Regulations 58 and 60(1) of LODR Regulations.

44. In this regard, I do not find any corroborative evidence placed on record to support the aforesaid charges levelled against Noticee. Therefore, I am of the view that the allegation that Noticee has not complied with Regulations 58 and 60(1) of LODR Regulations, does not stand established.

45. In terms of Regulation 59 of LODR Regulations, Noticee is required to take prior approval for any material modification in the structure of NCDs/ NCRPS. As no information regarding compliance with the provision of this regulation has been

provided by the Noticee, it has been alleged that the company has not complied with Regulation 59 of LODR Regulations.

46. In this regard, I do not find any corroborative evidence placed on record to support the aforesaid charges levelled against Noticee. Therefore, I am of the view that the allegation that Noticee has not complied with Regulation 59 of LODR Regulation does not stand established.

47. In terms of Regulation 60(2) of LODR Regulations, the Noticee is required to submit the notice of record date in advance of at least seven working days for the purpose of payment of interest or redemption amount. It is observed that the company has not submitted the notice for all 7 ISINs as required under this regulation. Hence, it has been alleged that the company has not complied with Regulation 60(2) of LODR Regulations. In this regard, I note from BSE's email dated February 7, 2020 that status of compliance with this regulation by Noticee is shown as "not submitted". Therefore, in absence of any other contrary evidence, it is established that Noticee has violated Regulation 60(2) of LODR Regulations.

48. In terms of Regulation 62 of LODR Regulations, the Noticee is required to maintain a functional website. However, it was observed that the company has not maintained a functional website containing the following:

i. Details in respect of its financial information (Reg. 62(1)(b))
ii. designated officials for handling investor grievances (Reg. 62(1)(c)),
iii. e-mail address for grievance redressal (Reg. 62(1)(d)),
iv. details of debenture trustees (Reg. 62(1)(e)), report, notices, call letters etc. (Reg. 62(1)(f)),

v. all information and reports filed (Reg. 62(1)(g)).

Hence, it is alleged that the company has not complied with Regulation 62 of LODR Regulations.

49. In this regard, I note that BSE vide email dated February 7, 2020 informed SEBI that Noticee does not have functional website as required under the aforesaid regulation. Therefore, in absence of any proof to the contrary, I find that the allegation that Noticee has violated Regulation 62 of LODR Regulations stands established.

50. Further, as noted in the preceding paragraphs of this Order, Noticee did not file any reply to the SCN nor did he avail of any opportunities of representation granted to him during this adjudication proceeding. In this regard, I place reliance on the Order of Hon'ble Securities Appellate Tribunal (SAT), in the case of Sanjay Kumar Tayal & Ors. v. SEBI (in appeal No. 68/2013) decided on February 11, 2014, wherein Hon'ble SAT held that "...*appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices*".

51. In the facts and circumstances of this case, I find that absence of any reply or representation by Noticee would, therefore, tantamount to Noticee's admission of charges levelled against them in the SCN.

Issue No. II: If yes, whether the failure on the part of the Noticee would attract monetary penalty under Section 15A (b) and Section 15HB of the SEBI Act?

52. It has established in the preceding paragraphs that Noticee has violated Regulations 6(1), 7(3), 50(1), 50(2), 50(3),52(1), 52(2), 52(4), 52(5), 52(7), 54(2), 55, 56(1), 56(2), 57(1),57(2), 60(2), and 62 of the LODR Regulations.

53. In context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon'ble Court had held "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.''*

54. Therefore, the above violation of Regulations 7(3), 50(1),50(3), 52(1), 52(2), 52(4), 52(5), 52(7), 54(2), 56(1), 57(1) and 60(2), of LODR Regulations by Noticee would attract monetary penalty under Section 15A(b) of SEBI Act, and the above violation of Regulations 6(1), 50(2), 55, 56(2), 57(2), 62 of LODR Regulations by Noticee would attract monetary penalty under Section 15HB of the SEBI Act . The text of Section 15A(b) and Section 15HB of SEBI Act is reproduced below:

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made thereunder,—*

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations [or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents][1], he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board there under for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Issue No. III: What would be the monetary penalty that can be imposed upon Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

55. While determining the quantum of penalty under Section 15A(b) of the SEBI Act and under Section 15 HB of the SEBI Act, it is important to consider the factors as stipulated in Section 15J of the SEBI Act, which reads as under:

SEBI Act

Factors to be taken into account by the adjudicating officer.

Section 15J *- While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*

[1] With effect from March 08, 2019

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

Explanation- For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

56. In view of the charges established, the facts and circumstances of the case, the quantum of penalty would depend on the factors referred in Section 15-J of the SEBI Act, stated as above. In the instant case, I find that, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the default of Noticee in making disclosure. I note that material available on the record also does not indicate the amount of specific loss caused to an investor or investor group. Further, I note that there is no evidence on record to indicate that violations of Noticee are repetitive in nature. I also note from materials available on record that Noticee had not responded to any of the queries raised by SEBI/BSE nor provided any information to SEBI/BSE during the investigation. Thus, I find that Noticee was non-cooperative to investigation proceedings conducted by SEBI.

ORDER

57. Having considered all the facts and circumstances of the case, the material available on record, and also the factors mentioned in Section 15J of the SEBI Act, as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs. 3,50,000/- (Rupees Three Lakh Fifty Thousand Only) on Noticee i.e. Fortis Healthcare Holdings Private Limited:
    a) Rs 1,50,000/- (Rupees One Lakh Fifty Thousand Only) under Section 15A(b) of SEBI Act and
    b) R. 2,00,000/- (Rupees Two Lakh Only) under Section 15HB of SEBI Act

58. I am of the view that the said penalty is commensurate with the lapse/omission on the part of Noticee.

59. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in.

60. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD – DRA - IV, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051” and also to e-mail id:- tad@sebi.gov.in

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

61. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties of Noticee.

62. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee viz. Fortis Healthcare Holdings Private Limited and also to SEBI.

Place: Mumbai
Date: October 25, 2021

SOMA MAJUMDER
ADJUDICATING OFFICER