

SO/AA/RK/2023-24/7233
SECURITIES AND EXCHANGE BOARD OF INDIA
SETTLEMENT ORDER

In respect of:

Sr. no.	Name of the Entity/ Applicant	Settlement Application No.	PAN
1	Fulcrum Venture India Trust	7323/ 2023	AABFF7317C
2	Fulcrum Venture India LLP	7233/ 2023	AADFF0557G
3	Vistra ITCL (India) Limited (Formerly known as IL&FS Trust Company Limited)	7248/ 2023	AAACI6832K

(The aforesaid entities are hereinafter referred to by their respective names and collectively as the “Applicants”)

In The Matter of Examination of Fulcrum Venture India Trust

BACKGROUND

1. Fulcrum Venture India Trust (hereinafter referred to as ‘**Applicant no. 1**’/ ‘**Fund**’) is set up in the nature of Trust and is registered as a Category II Alternate Investment Fund (hereinafter referred to as ‘**AIF**’) with the Securities and Exchange Board of India (hereinafter referred to as ‘**SEBI**’) under the provisions of the Securities and Exchange Board of India (Alternate Investment Funds) Regulations, 2012 (hereinafter referred to as ‘**AIF Regulations**’), having registration No. IN/AIF2/12-13/0019 from November 26, 2012. The registered office of the Fund is located at No. 14, 3rd Floor, Kalakshetra Road, Thiruvanmiyur, Chennai- 600041.
2. The Fund is managed by Fulcrum Venture India LLP (hereinafter referred to as ‘**Applicant no. 2**’/ ‘**Manager**’). Vistra ITCL (India) Limited (formerly known as IL&FS Trust Company Limited) (hereinafter referred to as ‘**Applicant no. 3**’ / ‘**Trustee**’) is the Trustee of the Fund. The Fund has launched one scheme, details of which are as follows: -

Table 1: Details of scheme launched by the Fund

Name of the Scheme	Type of scheme	Target Corpus	Corpus	Investible Funds	Sponsor Contribution	No. of investors	AUM	Date of initial closing	Date of Final Closing	Tenure of scheme as per PPM
Fulcrum Venture India Fund II	Close ended	Rs. 120 Cr.	Rs. 99.55 Cr.	Rs. 87.46 Cr.	Rs. 30 Cr.	36	Rs. 89.38 Cr.	Oct 17, 2013	Apr 21, 2015	6 (six) years from the date of First Closing with an extension of 2 (Two) additional one-year periods.

3. A Show Cause Notice (hereinafter referred to as ‘SCN’) dated April 12, 2023 was served on the Applicants. The SCN *inter alia* alleged the following:
- In terms of the provisions of Regulation 29(1)(a) of AIF Regulations, the AIF set up as a trust shall be wound up when the tenure of the AIF or all schemes launched by the AIF, as mentioned in the placement memorandum is over.
 - It was observed that the Fund had failed to wind up the Fund/ Scheme and distribute proceeds to investors pursuant to the completion of its tenure as disclosed in the Private Placement Memorandum.
 - Regulation 29 (5) of the AIF Regulations states that the trustees or trustee company or the Board of Directors or designated partners of the Alternative Investment Fund, as the case maybe, shall intimate the Board and investors of the circumstances leading to the winding up of the Alternative Investment Fund. Further, Regulation 29 (7) of the AIF Regulations states that within one year from the date of intimation under Regulation 29 (5), the assets of the AIF shall be liquidated, and the proceeds accruing to investors in the AIF shall be distributed to them after satisfying all liabilities.
 - As per Fund’s submissions, the term of the scheme ended on October 16, 2019 and the extended term in accordance with the clauses of the Private Placement Memorandum (hereinafter referred to as “PPM”) and the Contribution Agreement, ended on October 16, 2021. Accordingly, the Fund was required to be liquidated and proceeds distributed by October 16, 2022 in terms of Regulation 29 (7) of AIF Regulations.
 - The Fund vide email dated February 23, 2023 informed SEBI that it was unable to liquidate the securities due to unfavourable market circumstances, and that it had to extend the term for period of one (1) year up to October 15, 2023.

- (f) In view of the above, it was alleged that by failing to wind up scheme and distribute proceeds to investors pursuant to completion of tenure of the Fund, Applicant nos. 1 to 3 i.e. the Fund, the Manager and the Trustee have violated the provisions of Regulation 29(1)(a) of the SEBI (AIF) Regulations, 2012.
 - (g) In terms of the provisions of Regulation 28 of AIF Regulations, the Board may at any time call upon the AIF to file such reports, as the Board may desire, with respect to the activities carried on by the Alternative Investment Fund. Further, Circular no. CIR/IMD/DF/10/2013 dated July 29, 2013 inter-alia states that Category II AIFs shall submit a report to SEBI on a quarterly basis in the specified format.
 - (h) Pursuant to SEBI's examination, it was observed that the Fund in its quarterly report submission for the quarter ended September, 2022 through SEBI Intermediaries Portal had submitted that the End Date of Term of Fulcrum Venture India Fund II is April 10, 2020 and the Extended End Date of the Term is April 10, 2022. However, the Fund had submitted vide letter dated October 07, 2021 and email dated January 18, 2023 that the End Date of the Term of the Fund was October 16, 2019 and the Extended End Date of the Term was October 16, 2021. In view of the above, it was alleged that the Noticee no. 1, Fund has misreported the said data in the Quarterly Report for the quarter ending September, 2022 thereby violating Reg. 28 of AIF Regulations read with Circular CIR/IMD/DF/10/2013 dated July 29, 2013.
 - (i) The Applicants were called upon to show cause as to why suitable directions, under Section 11(1) and 11B(1) of SEBI Act, 1992 read with Regulation 34 of the SEBI (AIF) Regulations, 2012, including the direction to wind up the scheme- Fulcrum Venture India Fund II and distribute the proceeds accruing to investors in the said scheme and restraining from accessing capital markets, be not issued and why penalty be not levied upon him under Section 11(4A) and 11B(2) read with Section 15EA of the SEBI Act, 1992 for the violation of Regulation 29 (1) (a) of the SEBI (AIF) Regulations and Regulation 28 of SEBI (AIF) Regulations read with Circular CIR/IMD/DF/10/2013 dated July 29, 2013.
4. In response to the SCN, Applicant nos. 1 and 2 filed a common reply dated May 08, 2023 and Applicant no. 3 filed a reply dated June 26, 2023.

APPLICATIONS FOR SETTLEMENT OF PROCEEDINGS

5. The Applicants have filed the following applications with SEBI in terms of SEBI (Settlement Proceedings) Regulations, 2018 (hereinafter referred to as “**Settlement Regulations**”) proposing to settle the pending proceedings through a Settlement Order without admitting or denying the findings of fact and conclusions of law, which was intimated by the concerned department of SEBI:

Table 1

Sr. no.	Name of the Entity/ Applicant	Date of Filing	Settlement Application No.
1	Fulcrum Venture India Trust	May 29, 2023 revised on July 07, 2023	7323/ 2023
2	Fulcrum Venture India LLP	May 29, 2023 revised on July 07, 2023	7233/ 2023
3	Vistra ITCL (India) Limited (Formerly known as IL&FS Trust Company Limited)	June 15, 2023	7248/ 2023

6. The Applicant no. 2 vide letter dated November 09, 2023 informed SEBI that as on November 09, 2023 there was no unliquidated portfolio investment in the books of the Fund except investment by two investors who investment has been written off and that the same would take place on November 10, 2023.
7. Pursuant to receipt of the Settlement Applications, the Authorised Representatives of the Applicants had a meeting with the Internal Committee of SEBI (hereinafter referred to as ‘IC’) on November 10, 2023, wherein the terms of settlement were deliberated. The IC considered the factors enumerated under Regulation 10 and Schedule II of the Settlement Regulations and permitted the Applicants to submit revised terms of settlement. Accordingly, the Applicants filed Revised Settlement Terms (hereinafter referred to as “RST”) vide email and letter dated December 01, 2023 wherein the Applicants proposed the following:
- (a) Payment of Settlement Amount of INR 43,31,250 (Indian Rupees Forty-Three Lakh Thirty-One Thousand Two Hundred and Fifty) to SEBI;

- (b) Out of the total settlement amount of INR 43,31,250 (Indian Rupees Forty-Three Lakh Thirty-One Thousand Two Hundred and Fifty), an amount of INR 32,17,500 (Indian Rupees Thirty-Two Lakh Seventeen Thousand and Five Hundred) would be borne by the Manager i.e. Applicant no. 2 and the balance INR 11,13,750 (Indian Rupees Eleven Lakh Thirteen Thousand Seven Hundred and Fifty) would be borne by the Trustee i.e. Applicant no. 3.
8. The High Powered Advisory Committee (hereinafter referred to as ‘**HPAC**’) in its meeting held on December 21, 2023 considered the revised settlement terms proposed by the Applicants and recommended the case for settlement. In terms of Regulation 15 of the Settlement Regulations, the Panel of Whole Time Members of SEBI approved and accepted the recommendation of the HPAC on January 19, 2024 and the same was communicated to the Applicants on January 31, 2024.
9. Pursuant to the same, the Authorized Representative of the Applicants vide e-mail dated February 28, 2024 informed SEBI about the remittance of the settlement amount and the same was confirmed by the concerned department of SEBI.

ORDER

10. On the basis of the aforesaid, in exercise of the powers conferred under Section 15JB read with Section 19 of the SEBI Act and in terms of Regulations 23 read with Regulation 28 of the Settlement Regulations, it is hereby ordered that the instant proceedings initiated against the Applicants vide Show Cause Notice dated April 12, 2023 are disposed of as per the following terms:
- (i) SEBI shall not initiate any other enforcement action against the Applicants for the said violation; and
- (ii) Passing of this Order is without prejudice to the right of SEBI under Regulation 28 of the Settlement Regulations to initiate any enforcement action against the Applicants, if SEBI finds that:
- (a) any representations made by the Applicants in the settlement proceedings is subsequently found to be untrue; or

- (b) the Applicants have breached any of the clauses / conditions of undertakings / waivers filed during the current settlement proceedings; or
- (c) there was a discrepancy while arriving at the settlement terms.

11. This settlement order is passed on the 14th Day of March, 2024 and shall come into force with immediate effect.

12. In terms of Regulation 25 of the Settlement Regulations, copies of this order are being sent to the Applicants, Fulcrum Venture India Trust, Fulcrum Venture India LLP and Vistra ITCL (India) Limited and also to the SEBI.

Place: Mumbai
Date: March 14, 2024

Sd/-
DR. ANITHA ANOOP
CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA