WTM/GM/IVD/68/2018-19

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 and Regulation 11 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003.

In the matter of Fortis Healthcare Limited

In respect of:

Sr. No.	NOTICEE(S)	PAN
1.	Fortis Healthcare Limited	AAACF0987E
2.	Fortis Hospitals Limited	AABCF3718N
3.	RHC Holding Private Limited	AAKCS7686P
4.	Shivi Holdings Private Limited	AAACO2664H
5.	Malav Holdings Private Limited	AADCM1170B
6.	Malvinder Mohan Singh	AABPS2552G
7.	Shivinder Mohan Singh	AAKPS4318M
8.	Religare Finvest Limited	AAFCS6801H
9.	Best Healthcare Private Limited	AADCB1811A
10.	Fern Healthcare Private Limited	AACCR3509E
11.	Modland Wears Private Limited	AAACM0216F

BACKGROUND:

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**), noticed an article dated February 09, 2018 on www.bloomberg.com which *inter-alia* reported that the promoters of Fortis Healthcare Limited ("**Fortis**" or "**the company**" or "**FHL**") had taken at least Rs.5 billion out of the company. The article also pointed out that Fortis's auditor,

Deloitte Haskins & Sells LLP, had refused to sign off on the company's second-quarter results for FY 2017-18, until the funds were accounted for or returned.

2. SEBI held a meeting with the auditors of the company (i.e. Deloitte Haskins & Sells LLP) on February 12, 2018 to understand the issues raised in the aforesaid article of Bloomberg. During the course of discussions, the auditors mentioned *inter-alia* the following:

(a) Fortis Healthcare Limited, through its subsidiary, has given Inter Corporate Deposits (**"ICD"**) to 3 Indian companies to the tune of Rs.473 crores from 2013-14 onwards. These transactions were not classified as related party transactions.

(b) These loans were given in the beginning of each quarter and returned by the companies by the end of the quarter and thereby never reported in the balance sheet as the outstanding amount at the end of the quarter was NIL. This has been happening from the FY 2013-14 onwards. However, for the quarter ended September 2017, the amount was not returned by the said 3 borrower companies. The auditors mentioned that they raised the issue with the company and did not receive any response.

(c) On independent examination of filings of these 3 borrower companies with MCA, it appeared that these companies did not have enough cash flows to repay the amount to Fortis. These companies had the same set of directors also.

(d) The board and audit committee of Fortis have not validated the accounts for the quarter ended September 2017 and December 2017.

(e) The auditors mentioned that they referred the matter to audit committee for investigation.

(f) The auditors also stated that during discussions, the management of Fortis informed them that the 3 borrower companies to whom ICDs were given have become related parties to the company/promoters due to some internal restructuring of ownership from December 15, 2017 onwards.

3. On the basis of discussions with the auditors of the company, SEBI conducted preliminary examination in the matter and the following was *inter-alia* observed in the examination:

(a) FHL through Fortis Health Management Limited **("FHML")** had initially advanced loans in the form of ICDs to 3 Indian companies [viz. Best Healthcare Private Limited (**"Best"**), Fern Healthcare Private Limited **("Fern")** and Modland Wears Private Limited **("Modland")** (collectively referred to as **"3 borrower companies"**)] to the tune of Rs.576 crores (i.e. Rs.176 crores to Best, Rs.200 crores to Fern and Rs.200 crores to Modland) during December 2011. FHML later merged into M/s Fortis Hospitals Limited (**"FHsL"**), a 100% subsidiary of FHL, under a scheme of amalgamation approved by Delhi High Court with effect from September 01, 2013.

(b) It was also observed from the verification of bank statements of the 3 borrower companies during December 2011 (when initial ICDs were given) that the ICD amounts were transferred to promoters/promoter connected entities of FHL. Further, there were several other transactions observed between the 3 borrower companies and the promoters/promoter connected entities.

4. In order to find the ultimate utilization of funds of FHL, the entire transactions in the bank accounts of the 3 borrower companies and the promoter/ promoter connected entities were required to be examined in detail from FY 2011-12 to FY 2017-18. This required analysis of voluminous data in trailing of funds in the bank statements of the FHL, FHsL, the 3 borrower companies, promoter/ promoter connected entities and any other entity that had significant financial transactions with these entities along with the analysis of nature of transactions and underlying documents. Hence, SEBI appointed a Forensic Auditor [MSA Probe Consulting Pvt. Ltd. (**"MSA"**)] on May 10, 2018 to examine the alleged diversion of funds from FHL / its subsidiaries for the benefit of promoter / promoter connected entities.

5. Accordingly, MSA submitted its report in the matter of FHL on August 16, 2018 to SEBI. To understand the end use of the ICDs and the true nature of the transactions, the said report segregated the transactions and gave its findings under the heads mentioned below:

(A) ICDs issued in December 2011 for the transfer of Land to RHC Holding.

(B) Short term Loans given by FHsL to borrowers from time to time for the benefit of Promoters.

(C) Ultimate utilization by Promoter Entities of ICDs which are outstanding till date.

(D) Misrepresentation in Financial Statements through Structured Movement of ICDs.

6. The major findings of the report by MSA under the abovementioned heads are as under:

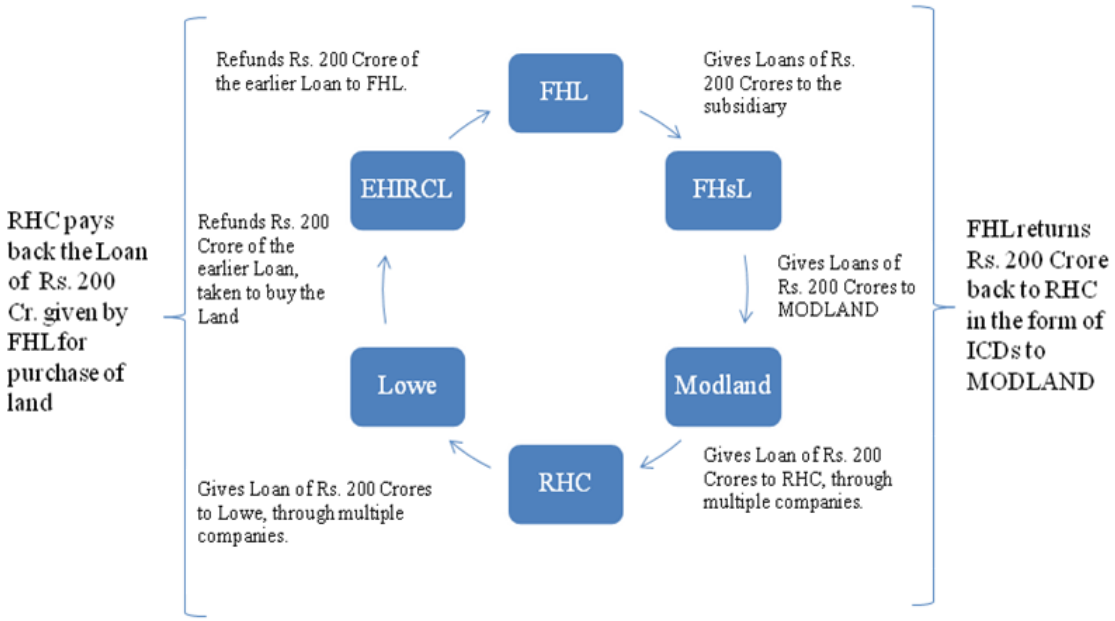
A. <u>ICDs issued in December 2011 for the transfer of Land to RHC Holding</u>

(1) M/s RHC Holding Pvt. Ltd., which is a Promoter Entity of FHL and FHsL, wanted to purchase a parcel of land at Golf Course Extn. Road, Sector - 62, Gurgaon, which was held by M3M India Pvt. Ltd. However, the said parcel of land was first acquired indirectly by FHL through its subsidiary Escorts Heart Institute and Research Centre Ltd. (**"EHIRCL"**) and in the name of another company, Lowe Infra and Wellness Private Limited (**"Lowe"**) in May 2011. For this, FHL entered into an agreement to purchase the said parcel of land through its subsidiary EHIRCL for Rs.600 crores. In pursuance of the same, FHL gave a loan of Rs.576 crores to EHIRCL between June 07, 2011 and July 28, 2011. FHL had arranged funds for the said loan to EHIRCL by issuing Commercial Papers to Axis Bank, HDFC Bank, Bank of India, HDFC Ergo and NABARD. Upon receiving the said loan of Rs.576 crores from FHL, EHIRCL loaned the same amount to Lowe, which ultimately utilized the same to purchase the land from M3M India Pvt. Ltd. The repayment of the abovementioned Commercial Papers were made by FHL during the period from December 2011 to March 2012.

(2) Subsequently, on December 13, 2011, EHIRCL (a subsidiary of FHL) in its board meeting passed a resolution to recall the advance paid to Lowe and end the agreement entered into by it with Lowe. Thereafter, the promoter entity of FHL i.e. M/s RHC Holding Pvt. Ltd. (**"RHC"**) took over the land from Lowe. In such a scenario, since the money used by Lowe to initially acquire the land from M3M India Pvt. Ltd. had come as loan from FHL through EHIRCL, the consideration amount paid by RHC for the subsequent takeover of land from Lowe should have ultimately

gone back to FHL. However, the same did not happen as RHC did not actually pay any money for the said acquisition. Instead, it merely entered into a series of transactions involving circular movement of funds to create a smokescreen to cover the said fact. As part of the same, it just rotated Rs.200 crores three times on 28th December 2011 through the 3 borrower companies, to create a mirage that Rs.576 crores [along with interest, total amounting to Rs.600 crores (approx.)] has been paid back to FHL. The same involved granting ICDs by FHL to the three borrower companies through FHsL. To illustrate the modus operandi for the same, the circular movement of funds between RHC and Modland (one of the three borrower companies) is depicted below:

Rotational Movement of funds through Modland on 28/12/2011



(3) In the above depiction, it can be seen that the movement of funds started from RHC on 28/12/2011 wherein RHC Paid Rs.200 crores to Lowe. Lowe, on the same date, transferred this Rs.200 crores to pay back part of the loan it had taken from FHL to purchase the land. Thereafter, FHL gave a loan / ICD of Rs.200 crores to Modland through FHsL on the same date. Thereafter, Modland, through multiple entities transferred the said amount of Rs.200 crores to RHC the very same day. Thus,

Rs.200 crores which had first moved out of RHC had ultimately come back to RHC by following a circuitous route. The complete rotation of funds as mentioned above had taken place on the same day. Similar circular movement of funds was repeated between RHC and the other two borrower companies (Best and Fern) on the same date. The same was done to falsely portray that RHC had paid the consideration money of Rs.600 crores in three tranches to Lowe for the land on 28/12/2011. However, in reality, no consideration was paid by RHC. It was found that all the accounts that have been used for the rotation are maintained with Axis Bank.

(4) It was found that later RHC repaid the said amount of Rs.600 crores to FHL through FHsL with 14% interest per annum over a period of four years. The repayment was completed by 31st July 2015. Thus, though RHC ultimately paid the consideration for land, it took 3-4 years for making payments. In other words, ICDs/loans that FHL provided to Best, Fern and Modland through FHsL had actually been utilized by RHC for a period of 3-4 years.

(5) It appears that the reason for routing the loans through unrelated entities apparently was to circumvent the provisions of Clause 32 of the Listing Agreement).

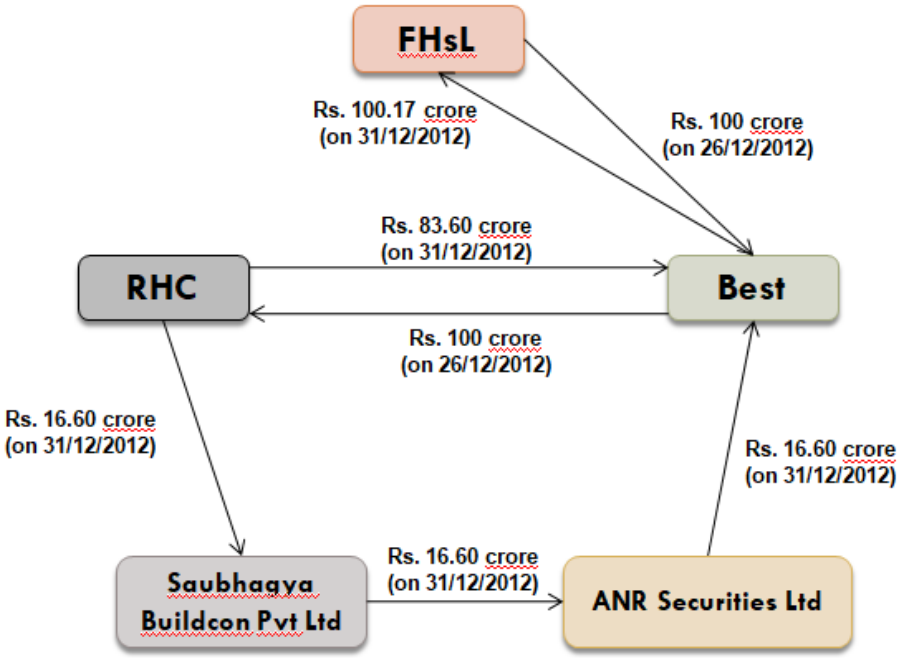
B. <u>Short term loans given by FHsL from time to time for the benefit of Promoters</u>

(6) It was noted that besides the ICDs as mentioned above, FHsL (a 100% subsidiary of FHL) has given numerous short term loans to unrelated entities (viz. Best, Fern and Modland). All the loans were interest bearing loans. In order to identify the ultimate beneficiaries of the short term loans provided by FHsL to Best, Fern and Modland, the money trail for each of the loan transaction and the repayment transaction was established.

(7) It was observed that the loans given to the borrower companies (Best, Fern, Modland) had been immediately transferred to promoter related entities (viz. RHC

and Religare Finvest Limited) on the very same day or within a couple of days and the repayment of such loans was also arranged by the aforementioned promoter related entities.

(8) An example of loan transaction is given below:



(9) From the above chart, it is observed that FHsL gave short term loan of Rs.100 crores to Best on 26/12/2012. On the same day, Best transferred Rs.100 crores to RHC. RHC repaid Rs.83.60 crores directly to Best on 31/12/2012 and Rs.16.60 crores indirectly to Best on 31/12/2012 (through Saubhagya Buildcon Pvt Ltd and ANR Securities Ltd). Best repaid the amount of Rs.100.17 crores to FHsL on 31/12/2012. Hence, the ultimate beneficiary of loan given by FHsL to Best (an unrelated entity) was RHC (promoter entity of FHsL).

(10) As stated above, the short term loans given by FHsL to the borrower companies (Best, Fern, Modland) were immediately transferred to RHC and other promoter related entities on the very same day or within a couple of days and the repayment of

such loans was also arranged by RHC / other promoter related entities. However, out of such short term loans, 2 loans to the tune of Rs.100 crores given by FHsL to Best (loan of Rs.75 crore) and Fern (Rs.25 crores), which in turn were passed on to a promoter related entity (viz. Religare Finvest Limited), were not repaid by the promoter related entities. Instead, their repayment was done by Best and Fern out of the funds of FHsL itself which had come to them through Modland. Details of the said repayment of loans by Best and Fern to FHsL have been provided in para 6(15)(c) of this order.

(11) From the above, it emerged that the loans given by FHsL to 3 borrower companies were for the sole purpose of making available funds to promoter and related entities. Though it was portrayed that the loans were given to Best, Fern and Modland which were apparently not connected to FHsL or its directors / promoters at the time of giving the loans, the ultimate beneficiaries of such loans were RHC Holding and other promoter related entities.

(12) Further, similar to the process followed in granting of short term loans and subsequent routing to promoter entities as mentioned above, the repayment of such short term loans was made by the promoter related entities by routing the funds through multiple companies and the movement of funds had happened mostly on the same day or in a couple of days.

(13) It *prima facie* appears that the routing of loans from FHsL to RHC through unrelated entities apparently was done to circumvent the provisions of Clause 32 of the Listing Agreement and Regulation 53(f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 as well as to misrepresent the transactions in the books of FHsL.

C. <u>Ultimate Utilization by Promoter Entities of ICDs which are outstanding till date:</u>

(14) From F.Y. 2011-12 to F.Y. 2017-18, numerous transactions were observed between FHsL and the below mentioned entities(Best, Fern and Modland) relating to granting of ICDs and receipt of repayment & interest. The outstanding principal amount of the ICDs with each one of them as on 31st May 2018 is given in table below:

Name of the borrower entity	**Principal Amount Outstanding as on 31/5/2018 (in Rs. crores)**
Best Healthcare Private Limited	98.00
Fern Healthcare Private Limited	105.00
Modland Wears Private Limited	200.00
Total	**403.00**

(15) To clearly understand the true nature of the transactions and the movement of funds, the roll-over transactions in ICDs and the interest payments were ignored and the following actual movement of funds was traced out from the bank account statements of the said three borrower companies:

(a) **Best –**FHsL paid Rs.98 crores to Best on 20/05/2016. On same date, Best transferred Rs.98 crores to Torus Buildcon Pvt Ltd. (**"Torus"**). Thereafter, Torus transferred Rs.98 crores to Ranchem Private Limited (**"Ranchem"**) on the same date. Ranchem paid Rs.98 crores to RHC on 20/05/2016 and RHC paid Rs.102.7 crores to RHC Commercial Paper A/c on 20/05/2016 which was finally used by RHC for repaying its loan to India Bulls Liquid Mutual Fund on 20/05/2016. **Hence, the amount of Rs.98 crores that was given by FHsL to Best (through ICD) was actually utilized by RHC Holding to pay off its debt.** As on 31/05/2018, ICD amount of Rs.98 crores was still outstanding from Best.

(b) **Fern–**FHsL paid Rs.175 crores to Fern on 04/04/2016. On same date, Fern transferred Rs.175 crores to ANR Securities Pvt Ltd (**"ANR"**). Thereafter,

ANR transferred Rs.175 crores to RHC on 04/04/2016 and RHC paid Rs.200.40 crores to HDFC Limited on 04/04/2016 to clear its outstanding dues for loan taken from HDFC Limited. It was also observed that out of Rs.175 crores, Fern has made a repayment of Rs.70 crores to FHsL on 21/02/2018. However, Rs.105 crores was still outstanding from Fern as on 31/05/2018. **Hence, out of Rs.175 crores that was given by FHsL to Fern through ICD, Rs.105 crores was actually utilized by RHC Holding to pay off its debt.**

(c) **Modland–**FHsL issued two ICDs to Modland. With reference to the first ICD, FHsL paid Rs.100 crores to Modland on 04/04/2016. On the same date, Modland transferred Rs.100 crores to Torus. Thereafter, Torus transferred Rs.25 crores to Fern and Rs.75 crores to Best on 04/04/2016. Fern and Best utilized this Rs.100 crores to repay certain earlier loans of the same amount which they had taken from FHsL, details of which are mentioned at Para 6(10) of this order. It may be noted from para 6(10) that the said earlier loans of Rs.100 by FHsL to Best (Rs.75 crores) and Fern (Rs.25 crores) were ultimately passed on to Religare Finvest Limited. Since the earlier loans amounting to Rs.100 crore that FHsL gave to Best and Fern were ultimately transferred to Religare Finvest Limited and the repayment of such loans was arranged by Best and Fern from the abovementioned first ICDs of 100 crores given by FHsL itself, **the ultimate beneficiary of the first ICD of Rs.100 crore was Religare Finvest Limited.**

With reference to the 2nd ICD, FHsL paid Rs.100 crores to Modland on 04/04/2016. On same date, Modland transferred Rs.100 crores to Torus. Thereafter, Torus transferred Rs.100 crores to Addon Realty on 04/04/2016. Addon Realty paid Rs.100 crores to Religare Finvest Limited on 04/04/2016. **Hence, the amount of Rs. 100 crores (i.e. 2nd ICD) that was given by**

FHsL to Modland (through ICD) was ultimately transferred to Religare Finvest Limited. As on 31/05/2018, the aforementioned ICDs to the tune of Rs.200 crores were still outstanding from Modland.

(16) Based on the above, the summary of ICDs amount still outstanding and their ultimate utilization is shown in table below:

ICD issued to	Principal Amount (in Rs. crores)	Ultimate Utilization
Best Healthcare Private Limited	98.00	Used by RHC Holding to pay off its debt to India Bulls Mutual Fund
Fern Healthcare Private Limited	105.00	Used by RHC Holding to pay off its debt to HDFC Limited
Modland Wears Private Limited	100.00	Paid to Religare Finvest Limited
	100.00	Paid to Religare Finvest Limited
TOTAL	**403.0**	

(17) Hence, there is outstanding principal amount of Rs.403 crore (excluding interest) that is owed by the borrowers (aforementioned three entities) to FHsL.

D. <u>Misrepresentation in financial statements through structured movement of funds</u>

(18) FHsL has entered into multiple structured transactions over a period starting from June 30, 2016 till June 30, 2017, which were *prima facie* fictitious and fraudulent in nature. These pertained to various ICDs granted by FHsL to Best, Fern and Modland, which were shown to have been squared off at the end of each of the following quarters:

- Q1 of F.Y. 2016-17 (1st April 2016 to 30th June 2016),
- Q2 of F.Y. 2016-17 (1st July 2016 to 30th Sept. 2016),
- Q3 of F.Y. 2016-17 (1st Oct. 2016 31st Dec. 2016),
- Q4 of F.Y. 2016-17 (1st Jan 2017 to 31st March 2017) and
- Q1 of F.Y. 2017-18 (1st April 2017 to 30th June 2017)

(19) However, in reality, the ICDs were not squared off but were fictitiously and fraudulently shown to have been repaid through a structured movement of funds between FHsL and the borrower companies at the end of each quarter to give rise to an accounting fiction that the payment due for all the ICDs has been received.

(20) An example of such *prima facie* fictitious and fraudulent structured transactions can be seen from the transactions between FHsL and Best for the roll over carried out for the 1st quarter of F.Y. 2017-18 (April 01, 2017 to June 30, 2017). For the said quarter, the transaction as recorded in the books of Accounts of FHsL as on Quarter ending on June 30, 2017 are as follows:

Date	**Particulars**	**Amt. Received from Best (in Rs. Crore)**	**Amt. Paid to Best (in Rs. Crore)**	**Balance (in Rs. Crore)**
	Opening Balance			150
30/06/2017	Loan received back	150		
01/07/2017	Loan Given		155.07	155.07

(21) From the above table, it appears that the closing balance receivable from Best at the end of the quarter is NIL, as per the books of accounts of FHsL. However, the actual movement of funds between FHsL and Best, as reflected in the bank statement of Best, is as follows:

Actual Movement of funds between FHsL and Best (as reflected in the bank statement of Best)					
Date	**Particulars**	**Cheque No.**	**Amt. Paid (in Rs. Crore)**	**Amt. Recd. (in Rs. Crore)**	**Balance (in Rs. Crore)**
	Opening Balance				0.09
01/07/2017	Recd from FHsL	05836		30	30.09
01/07/2017	Paid to FHsL	00112	30		0.09
01/07/2017	Recd from FHsL	05835		30	30.09

01/07/2017	Paid to FHsL	00110	30		0.09
01/07/2017	Recd from FHsL	05834		30	30.09
01/07/2017	Paid to FHsL	00111	30		0.09
01/07/2017	Recd from FHsL	05833		30	30.09
01/07/2017	Paid to FHsL	00109	30		0.09
01/07/2017	Recd from FHsL	05832		30	30.09
01/07/2017	Paid to FHsL	00107	30		0.09
01/07/2017	Recd from FHsL	05827		5.07	5.16
01/07/2017	Paid to FHsL	00108	5.07		0.09

(22) From the above table, it is observed that FHsL and Best have rotated funds through multiple cheques of Rs.30 crores each which were cleared by the bank in the account of both FHsL and Best on the same date. It is also observed that though the actual movement of funds (both inflow and outflow) between FHsL and Best had taken place only on 01/07/2017, FHsL, has fraudulently backdated all the inflow transactions (gross receipts) to 30/06/2017 in its books of accounts, by showing them as repayments received from Best. Further, it is seen that though an amount of Rs.30 crores was moved back and forth multiple times to show that the principal amount of Rs.150 crores was repaid by Best to FHsL on 30/06/2017 and thereafter Rs.155.07 crores was again given by FHsL to Best on 01/07/2017 as fresh ICD/loan, the whole exercise was a sham transaction with no real transfer of funds.

(23) It was also observed that the balance in bank account statement of Best on 30/06/2017 (the day on which cheques to the tune of Rs. 150 crores were issued) was Rs.0.09 crore only.

(24) Similar modus operandi of executing the structured transactions was noticed between FHsL and the 3 borrower companies (Best, Fern and Modland) for all the above mentioned five quarters during April 01, 2016 to June 30, 2017.

(25) It was noted that in almost all instances of bank transactions between FHsL and the 3 borrower companies between 28/12/2011 to 31/03/2016 (i.e. prior to the

abovementioned five quarters), the method adopted was direct bank transfer through NEFT/ RTGS/ Transfer letter. However, from 31st March 2016, cheques were used to orchestrate the structured transactions as they help in creating the accounting fiction that funds have been received on the last day of the quarter, when the real money movement happened only on the first day of the next quarter.

(26) From the above, it emerged that the structured transactions at the end of each quarter have been carried out to misrepresent the true financial position of FHsL at the end of each quarter. Through these transactions, the position of funds lying in the bank account of FHsL at the end of each quarter has been artificially inflated by following amounts:

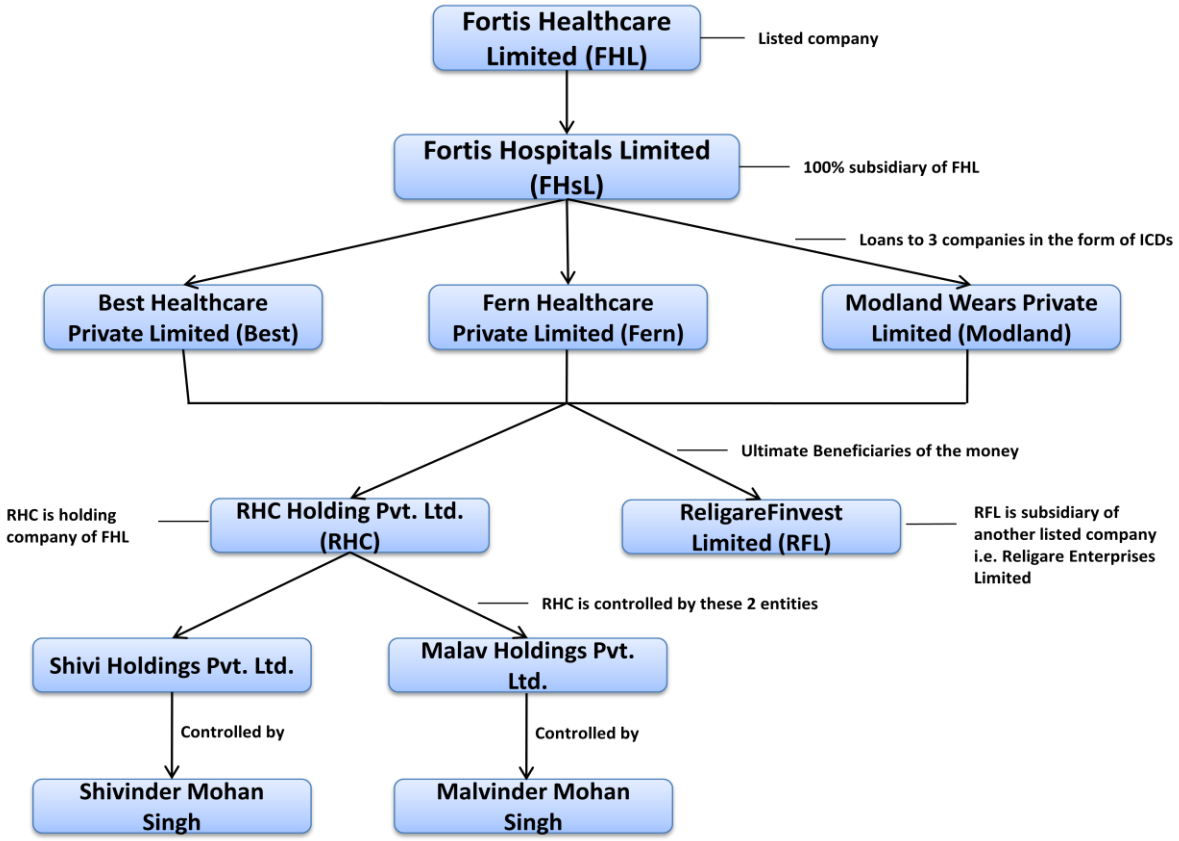
Quarter ending	**Amount by which bank balance was inflated (in Rs. crores)**
June 30, 2016	473.00
September 30, 2016	473.00
December 31, 2016	473.00
March 31, 2017	473.00
June 30, 2017	478.00

(27) In addition to the artificial inflation of bank balance, the transactions also masked the fact that the short term loans that the company had given were not performing and that in most probability had gone bad. Thus, the same should have been written off from the books of FHsL as on June 30, 2016 itself (i.e. when the aforementioned structured transactions were executed for the first time) which would have led to a loss of Rs.473 crores in the books of FHsL.

(28) Hence, the disclosures provided by FHL and FHsL in their quarterly statements for the above period and the Financial Statements for F.Y. 2016-17 had been grossly misrepresented.

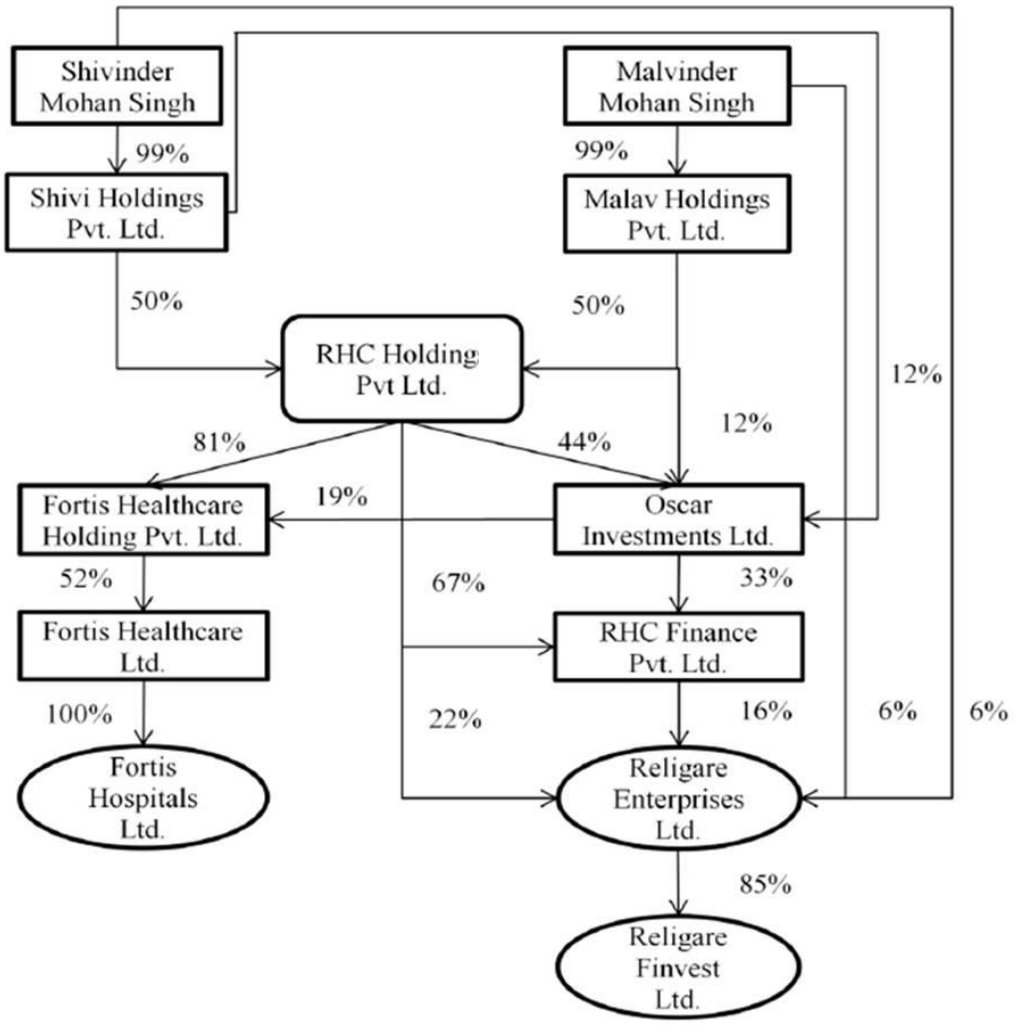
7. It is noted that FHL has submitted its Un-audited Financial results for FY 2017-18 to the Exchange on June 25, 2018. From the financial results of FHL, it is observed that FHL has made a provision for an amount of Rs.445 crore (approx.) for exceptional loss during FY 2017-18 on account of ICDs placed by FHsL with three companies (i.e. Best, Fern and Modland). However, it is noted that there is a *prima facie* case that such loss is entirely due to diversion of funds to promoters and promoter related entities of FHL, as explained in the foregoing paragraphs.

8. A flow chart depicting the alleged routing of funds from FHL (a listed company)for the ultimate benefit of erstwhile promoters of FHL is given as under:



9. From the above, it is seen that though the funds have moved from FHL through FHsL to three unrelated borrower entities (viz. Best, Fern and Modland) and in turn to two promoter

related entities, viz. RHC Holding and Religare Finvest Limited, the ultimate beneficiaries of such fund diversion *prima facie* are Shri Shivinder Mohan Singh and Shri Malvinder Mohan Singh. It is *prima facie* observed that both RHC Holding Pvt. Ltd. and Religare Finvest Limited are part of the same group, jointly controlled by Shri Shivinder Mohan Singh and Shri Malvinder Mohan Singh through Shivi Holdings Pvt. Ltd. and Malav Holdings Pvt. Ltd. respectively. The position of Shri Shivinder Mohan Singh and Shri Malvinder Mohan Singh in RHC Holding as well as Religare Finvest Limited, as on March 31, 2017, are depicted below:



Note: 1. % indicates shareholding as on March 31, 2017
Note 2: Promoter having >1% shareholding only considered

10. The *prime facie* role of FHL and FHsL in the alleged diversion of funds through the conduit entities (viz. Best, Fern and Modland) to RHC Holding and Religare Finvest Limited for the ultimate benefit of Shivi Holdings Private Limited, Malav Holdings Pvt. Ltd., Shri Shivinder Mohan Singh and Shri Malvinder Mohan Singh has already been established in the above paragraphs. Thus, all these entities have *prima facie* acted in a fraudulent manner in the said diversion of funds. From the above observations and findings, it *prima facie* appears that the abovementioned entities (Noticee nos. 1 to 11), by indulging in diversion of funds to the tune of Rs.403 crore (approx.) from a listed company (Fortis Healthcare Limited through FHsL) for the ultimate benefit of its parent company (i.e. RHC Holding Private Limited) and another group company (i.e. Religare Finvest Limited), have violated the provisions of Section 12A(a), (b) & (c) of the SEBI Act, 1992 and Regulations 3(b), (c) & (d) and 4(1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (PFUTP Regulations, 2003).

11. Further, it *prima facie* appears that FHL and FHsL, by indulging in misrepresentation of financial position of FHsL and artificial inflation of bank balance of FHsL and non-disclosure of material information in their books of accounts, have violated the provisions of Section 12A(a), (b), (c) of the SEBI Act, 1992 and Regulations 3(b), (c) & (d), 4(1) and 4(2)(f) & (r) of PFUTP Regulations, 2003. Further, FHL has also *prima facie* violated Regulations 4(1)(b) & (c), 30(1) and 51(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations).

12. Further, by routing of funds through unrelated entities for the benefit of parent company FHL has *prima facie* circumvented the provisions of Clause 32 of the Listing Agreement and Regulation 53(f) of LODR Regulations.

13. The said provisions of the SEBI Act, 1992; PFUTP Regulations, 2003; LODR Regulations and the Listing Agreement are as stated hereunder:

"SEBI Act, 1992

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003

3. Prohibition of certain dealings in securities

No person shall directly or indirectly –

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(r) planting false or misleading news which may induce sale or purchase of securities.

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Principles governing disclosures and obligations.

4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:

(b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.

(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.

Disclosure of events or information

30. (1) Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.

<u>Disclosure of information having bearing on performance/operation of listed entity and/or price sensitive information</u>
51. (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.

53. The annual report of the listed entity shall contain disclosures as specified in Companies Act, 2013 along with the following:
(f) related party disclosures as specified in Para A of Schedule V

Listing Agreement
32. … … …
… … …
The following disclosure requirements shall be complied by the companies in the Annual Accounts:

- *Loans and advances in the nature of loans to parent company by name and amount.*
- *Loans and advances in the nature of loans to associates by name and amount.*
- *Loans and advances in the nature of loans to firms/companies in which directors are interested by name and amount."*

14. A detailed investigation of the entire scheme employed in this case is necessary to find out the role of each entity in the alleged routing of funds. Such investigation by SEBI shall not be limited to ascertaining the role of the Noticees into the entire fraud but would also extend to other entities who may have played a role directly or indirectly in the entire fraud, including banks and auditors, if necessary. However, pending a detailed investigation into the entire fraud involving diversion of funds from FHL to its promoters/promoter related entities, an urgent need is felt to pass an ad-interim *ex-parte* order to protect the interests of shareholders of FHL and to prevent any further deterioration of funds/assets of FHL.

15. In view of the foregoing, in order to protect the interest of the investors and the integrity of the securities market, I, in exercise of the powers conferred upon me by virtue of section 19 read with sections 11(1), 11(4) and 11B of the SEBI Act, 1992, hereby issue the following directions:

(a) FHL (i.e. Noticee no. 1) shall take all necessary steps to recover the abovementioned amount of Rs.403 crore (approx.) along with due interest from Noticee nos. 2 to 11 (viz. FHsL, RHC, Shivi Holdings Pvt. Ltd., Malav Holdings Pvt. Ltd., Shri Malvinder Mohan Singh, Shri Shivinder Mohan Singh, Religare Finvest Limited, Best, Fern and Modland), within three months of date of this order.

(b) The Noticee nos. 2 to 11 (viz. FHsL, RHC, Shivi Holdings Pvt. Ltd., Malav Holdings Pvt. Ltd., Shri Malvinder Mohan Singh, Shri Shivinder Mohan Singh, Religare Finvest Limited, Best, Fern and Modland) shall, jointly and severally, repay the abovementioned amount of Rs.403 crores (approx.) along with due interest to FHL, within three months of this order.

(c) The Noticee nos. 2 to 11 (viz. FHsL, RHC, Shivi Holdings Pvt. Ltd., Malav Holdings Pvt. Ltd., Shri Malvinder Mohan Singh, Shri Shivinder Mohan Singh, Religare Finvest Limited, Best, Fern and Modland) shall, pending completion of the investigation and till further order, not dispose of or alienate any of their assets or divert any funds, except for the purposes as mentioned under para 15(b) and for meeting expenses of day-to-day business operations, without the prior permission of SEBI.

(d) The Noticee nos. 6 and 7 (viz. Shri Malvinder Mohan Singh and Shri Shivinder Mohan Singh) shall not associate themselves with the affairs of FHL in any manner whatsoever, till further directions.

16. The preliminary findings contained in above paragraphs of this order are made on the basis of the report of the forensic auditor and the preliminary examination carried out by SEBI. The Noticees may file their replies, if any, to SEBI within 21 days from the date of receipt of this order. In the event the Noticees intend to avail an opportunity of personal hearing, they may indicate the same in their replies.

17. The above directions shall come into force with immediate effect and shall remain in force till further directions.

18. This Order is without prejudice to any other action that SEBI may initiate under securities laws, as deemed appropriate.

19. A copy of this order shall also be served upon the Exchanges and the Depositories.

Place: Mumbai
Date: October 17, 2018

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA