

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:2354

ANSWERED ON:07.12.2012

REFUND TO DEPOSITORIES QUESTION

Bhagora Shri Tarachand;Gowda Shri D.B. Chandre;Jeyadural Shri S. R.

Will the Minister of FINANCE be pleased to state:

(a) Whether a real estate company which has allegedly committed on economic offences has been directed by the Supreme Court to refund over Rs.24,400 crore collected from depositories;

(b) if so, details thereof and the present status of the case; and

(c) the steps taken by the Union Government/Securities Exchange Board of India to safeguard the interests of investors?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI NAMO NARAIN MEENA)

(a) In its order dated 31 August 2012, in the matter of Sahara India Real Estate Corporation Ltd (SIRECL) and Sahara Housing Investment Corporation Ltd (SHICL) Supreme Court has inter-alia directed these companies to refund the amounts collected through Red Herring Prospectuses (RHPs) dated 13.3.2008 and 16.10.2009 along with interest @ 15% per annum to SEBI from the date of receipt of the subscription amount till the date of repayment, within a period of three months from, the date of the Order, which shall be deposited in a Nationalized Bank bearing maximum rate of interest.

The total amount collected through RHPs by the aforesaid two companies and the balance outstanding, as mentioned in the order of the Hon'ble Supreme Court dated August 31, 2012 are given below:

Particulars	SIRECL	SHICL
Total Amount Collected till April 13, 2011 through RHPs	19,400.87 Crore	6,380.50 Crore
Balance as on August 31, 2011	17,656.53 Crore	6,373.20 Crore
Total Balance Outstanding (SIRECL + SHICL) Excluding interest -	Rs. 24,029.73 Crore	

(b) The specific directions of the Hon'ble Supreme Court in this regard is as under:

1. Saharas (SIRECL & SHICL) would refund the amounts collected through red herring prospectus (RHPs) dated 13.3.2008 and 16.10.2009 along with interest @ 15% per annum to SEBI from the date of receipt of the subscription amount till the date of repayment, within a period of three months from today, which shall be deposited in a Nationalized Bank bearing maximum rate of interest.

2. Saharas are also directed to furnish the details with supporting documents to establish whether they had refunded any amount to the persons who had subscribed through RHPs dated 13.3.2008 and 16.10.2009 within a period of 10 (ten) days from the pronouncement of this order and it is for the Securities and Exchange Board of India (SEBI) Whole Time Member (WTM) to examine the correctness of the details furnished.

3. We make it clear that if the documents produced by Saharas are not found genuine or acceptable, then the SEBT (WTM) would proceed as if Saharas had not refunded any amount to the real and genuine subscribers who had invested money through RHPs dated 13.3.2008 and 16.10.2009.

4. Saharas are directed to furnish all documents in their custody, particularly, the application forms submitted by subscribers, the approval and allotment of bonds and all other documents to SEBI so as to enable it to ascertain the genuineness of the subscribers as well as the amounts deposited, within a period of 10 (ten) days from the date of pronouncement of this order.

5. SEBI (WTM) shall have the liberty to engage Investigating Officers, experts in Finance and Accounts and other supporting staff to carry out directions and the expenses for the same will be borne by Saharas and be paid to SEBI.

6. SEBI (WTM) shall take steps with the aid and assistance of Investigating Authorities /Experts in Finance and Accounts and other supporting staff to examine the documents produced by Saharas so as to ascertain their genuineness and after having ascertained the same, they shall identify subscribers who had invested the money on the basis of RHPs dated 13.3.2008 and 16.10.2009 and

refund the amount to them with interest on their production of relevant documents evidencing payments and after counter checking the records produced by Saharas.

7. SEBI (WTM), in the event of finding that the genuineness of the subscribers is doubtful, an opportunity shall be afforded to Saharas to satisfactorily establish the same as being legitimate and valid. It shall be open to the Saharas, in such an eventuality to associate the concerned subscribers to establish their claims. The decision of SEBI (WTM) in this behalf will be final and binding on Saharas as well as the subscribers.

8. SEBI (WTM) if, after the verification of the details furnished, is unable to find out the whereabouts of all or any of the subscribers, then the amount collected from such subscribers will be appropriated to the Government of India.

9. We also appoint Mr. Justice B.N. Agarwal, a retired Judge of this Court to oversee whether directions issued by this Court are properly and effectively complied with by the SEBI (WTM) from the date of this order. Mr. Justice B.N. Agarwal would also oversee the entire steps adopted by SEBI (WTM) and other officials for the effective and proper implementation of the directions issued by this Court. We fix an amount of Rs.5 lakhs towards the monthly remuneration payable to Mr. Justice B.N. Agarwal, this will be in addition to travelling, accommodation and other expenses, commensurate with the status of the office held by Justice B.N. Agarwal, which shall be borne by SEBI and recoverable from Saharas. Mr. Justice B.N. Agarwal is requested to take up this assignment without affecting his other engagements. We also order that all administrative expenses including the payment to the additional staff and experts, etc. would be borne by Saharas.

10. We also make it clear that if Saharas fail to comply with these directions and do not effect refund of money as directed, SEBI can take recourse to all legal remedies, including attachment and sale of properties, freezing of bank accounts etc. for realizations of the amounts.

11. We also direct SEBI (WTM) to submit a status report, duly approved by Mr. Justice B.N. Agarwal, as expeditiously as possible, and also permit SEBI (WTM) to seek further directions from this Court, as and when, found necessary.

As Saharas failed to furnish the documents and refund the moneys to SEBI within the stipulated time as per the Order dated 31st August 2012 of the Hon^{ble} Supreme Court, SEBI filed a contempt case before the Hon^{ble} Supreme Court.

Saharas filed two sets of appeal before the Hon^{ble} Securities Appellate Tribunal (SAT). In the first set, a prayer was made for extension of time for submission of documents to SEBI. The second round of litigation was for allowing deposit of moneys with the Registrar of SAT towards refund of outstanding and unredeemed Optionally Fully Convertible Debentures.

The first set of litigation is listed for further hearing on December 20, 2012. The second was dismissed by the Hon^{ble} Tribunal on November 29, 2012 as premature and non maintainable.

Challenging the order dated November 29, 2012, Saharas filed an appeal before the Hon^{ble} Supreme Court. The matter came up for hearing on 5 December 2012. On the said date, the Hon^{ble} Supreme Court disposed off the appeal. Pursuant to the hearing before the Hon^{ble} Supreme Court on 5 December 2012, an amount of Rs.5,120 Crore has been refunded to SEBI by the Saharas.

(c) Since the Hon^{ble} Supreme Court has directed SEBI (WTM) to submit a status report duly approved by Hon^{ble} Justice B.N. Agarwal, SEBI has taken the following steps to safeguard the interests of investors pursuant to order of Hon^{ble} Supreme Court.

1. In terms of the direction of the Hon^{ble} Supreme Court vide Order dated August 31, 2012, SEBI is regularly submitting the status report to the Hon^{ble} Supreme Court approved by the Hon^{ble} Justice Shri B.N. Agarwal.

2. SEBI filed a contempt petition against the Saharas and their promoter/directors, before the Hon^{ble} Supreme Court, in view of the non-compliance by the Saharas with the directions as given in the judgment and order dated 31.08.2012 passed by the Hon^{ble} Supreme Court.

3. SEBI released a series of advertisements in the National English and Hindi dailies, cautioning the investors of Saharas not to yield to any pressure from Saharas or their agents/ officials for converting or switching over their existing investments in the Bonds to any of their other Schemes like Q Shop etc., and to hold on to their original documents and produce the same to SEBI when called for, keeping in view the investor complaints received alleging inter alia forceful conversion of OFCDs into instruments of other Sahara Group companies.

4. SEBI launched prosecution proceedings against Saharas and their promoter/directors.

5. SEBI initiated adjudication proceedings against Saharas and their promoter/directors.

6. SEBI wrote to :

a. Various banks requesting them to furnish full details of all bank accounts of Sahara group and their promoters/directors, held with them;

b. Depositories requesting for details of holdings in the demat accounts of the Sahara group and their promoters / directors;

c. Saharas to furnish the details of bank accounts and properties, held, by them, so as to enable SEBI to take recourse to appropriate legal remedies as per the directions of the Hon^{ble} Supreme Court.

7. SEBI wrote to the Chief Secretaries of Governments of Uttar Pradesh and Maharashtra, requesting them to direct initiation of civil/criminal proceedings against the Saharas through the relevant State Agencies, as some of the complainants have complained that their investments in Optionally Fully Convertible Debentures (OFCDs) have been switched over without their consent

8. SEBI wrote to NABARD, Enforcement Directorate, Central Economic Intelligence Committee, RBI and Financial Intelligence Unit requesting them to share with SEBI any material / information in their possession about the Sahara Group of Companies, more particularly SIRECL and SHICL. They were also requested to examine or inquire any possible violation of the provisions of law falling under their jurisdiction and share with SEBI the outcome of such examination /inquiry.