



1. **Querist: Reliance Home Finance Limited** (hereinafter referred to as "**Company**")

2. **Facts:**

2.1 The Company is public listed company engaging in business of Financing. The Company holds a Certificate of Registration from National Housing Bank (NHB) to carry on business of housing finance under the National Housing Bank Act, 1987. It is principally in the business of extending home loans, loans against property and construction finance. The Company is part of Reliance Anil Dhirubhai Ambani ("**Reliance ADA**") group with a promoter group shareholding of 73.09%.

2.2 **The Company has represented to us as follows:**

2.2.1 The Company had availed loans from Banks and financial institutions in the ordinary course of its business;

2.2.2 Post certain adverse events in the financial services sector including IL&FS episode and NBFCs crisis, all categories of lenders in India, including Banks, Mutual Fund, etc. had put an almost complete freeze on additional lending to housing finance companies ("**HFC's**"), and instead have been insisting upon reduction of existing borrowing;

2.2.3 These unprecedented actions have severely impacted the financial flexibility of almost all HFCs in Country including the Company, resulting in adversely impacting the Company's ability to meet its debt servicing obligations;

2.2.4 In view of the above situation, the Company has been in negotiation with its lenders to arrive at a debt resolution plan. Accordingly, an Inter-Creditor Agreement ("**ICA**") has been signed by most of the lenders of the Company, in terms of RBI circular no. RBI/2018-19/203 DBR.No.BP.BC.45/21.04.048/2018-19 dated 7th June 2019 on Prudential Framework for Resolution of Stressed Assets, to arrive at a debt resolution plan for the Company. The process of restructuring is underway whereby the lenders are seeking to restructure the debt in the interest of all stakeholders;



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- 2.2.5 As part of the above process, Bank of Baroda (“BOB”), the Lead Bank acting on behalf of all signatories to ICA, appointed M/s Grant Thornton India LLP, (“Forensic Auditor”) to conduct a forensic review for the period 1st April 2016 to 30th June 2019 of the Company on 20th August 2019;
- 2.2.6 Pending completion of such forensic review by the Forensic Auditor, four lenders out of more than twenty lenders ‘red flagged’ the Company’s account with them, claiming existence of circumstances suggesting Early Warning Signals enumerated in terms of Circular No. RBI/DBS/2016-17/28/DBS.CO.CFMC.BC.No.1/23.04.001/2016-17 dated 1st July 2016, updated as on 3rd July 2017 issued by RBI on “Master Direction on Frauds- Classification and Reporting by commercial banks and selected FIs” (hereinafter referred to as “Circular”/ “RBI Circular”);
- 2.2.7 The Forensic Auditor conducted the forensic review of the Company including as in-depth discussions with key representatives of the Company to obtain details as regards the Group as well as its operations.
- 2.3 On 20th December 2019, BOB shared the draft forensic report with the Company and sought Company’s clarifications on the same.
- 2.4 The Company by its letters dated 23rd December 2019, 28th December 2019 and 31st December 2019 responded to BOB with its response on the observations in the draft forensic report.
- 2.5 Forensic Auditor issued its ‘Final report - Forensic Review’ dated 2nd January 2020 (hereinafter referred to as “FR”). An unsigned and unstamped copy of the FR has been provided to us by the Company.
- 2.6 The Company has placed with us the following documents for our consideration: -
- 2.6.1 Engagement letter dated 20th August 2019 appointing the Forensic Auditor for conducting a Forensic review of the Company and the detail scope of work (“Engagement Letter”);



- 2.6.2 Forensic Review Report dated 2nd January, 2020 titled "**Final Report - Forensic Review**";
- 2.6.3 Copy of the RBI Circular;
- 2.6.4 Copy of letters dated 20th December 2019, and 24th December, 2019 from BOB to the Company;
- 2.6.5 Copy of letters dated 23rd December 2019, 28th December 2019 and 31st December 2019 by the Company in response to the FR to BOB;

3. Issue for consideration

The Company is desirous to ascertain based on the above documents produced before us as to whether the Red Flagging done by certain Banks is required to be removed or further degraded to Fraud by the lender banks in terms of RBI Circular.

4. Overview

- 4.1 The term 'fraud' has not been defined by RBI. In general fraud is an act or omission which is intended to cause wrongful gain to one person and wrongful loss to the other, either by way of concealment of facts or otherwise.
- 4.2 The Indian Penal Code, 1860 ("**IPC**") does not define the term fraud, however, section 25 of the IPC defines 'fraudulently' as "*A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise*". Thus, one of the essential requirements to be classified as fraudulently under IPC is that there should be a wilful act of an accused with an intention to defraud. Thus, both elements must be present i.e. the act should be a wilful act and should also be done with an intention to defraud. Similarly, the term "intent to defraud", would contains two elements, deceit and injury. Thus, in order to classify as fraudulent, one needs to prove that there was a wilful act, which had been made with an intent to defraud and while proving "Intention to defraud", to further prove two elements that the act was an act of deceit and it had caused an injury.



- 4.3 At this junction a reference to Section 17 of the Indian Contract Act, 1872 can be made to ascertain the manner in which 'intent to deceive' has been considered therein. Under Section 17 of the Indian Contract Act, 1872, fraud has been defined to mean and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agents, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:
- the suggestion as a fact, of that which is not true, by one who does not believe it to be true;
 - the active concealment of a fact by one having knowledge or belief of the fact;
 - a promise made without any intention of performing it;
 - any other act fitted to deceive;
 - any such act or omission as the law specially declares to be fraudulent.
- 4.4 To evaluate as to whether based on the FR the lender banks are required to continue the red flagging of account of the Company in terms of the RBI Circular, the requirements of the RBI Circular need to be looked into.
- 4.5 As per Para 1.2 of the RBI Circular the said circular applies to all scheduled commercial banks (Excluding RRB's) and selected FI's. The purpose of the said circular is to provide the framework to banks enabling them to detect and report frauds early and take timely consequential action.
- 4.6 Para 2.2.1 of the RBI Circular details the manner of reporting frauds, according to which, the bank is required to classify the frauds under certain categories based on nature of fraud in order to have uniformity in reporting. In addition to above, there is also the residuary category for classification of Fraud into as "any other type" if they do not come under any specific heads.



- 4.7 The Chapter VIII of the RBI Circular deals with the framework for dealing with potential loan frauds. As per Para 8.3 of the RBI Circular, banks are required to red flag the account whenever there is early warning signal followed by a detail investigation/forensic audit as per para 8.9.4.
- 4.8 The illustrative list of early warning signals for the guidance of banks is given in Annexure II to the RBI Circular based on which the banks are required to adopt or adapt the relevant signals from the list and also include other alerts/signals based on their experience, client profile and business models. Thus, in case, there is an early warning signals in respect of borrower account, the account needs to be red flagged. The RBI Circular also prescribed certain exposure levels, which we presumed that in the case of the Company they are, beyond exposure limit.
- 4.9 Para 8.9.4 and 8.9.5 of the RBI Circular deals with the Forensic Audit to be conducted. Further as per para 8.9.5 of the RBI Circular, within 15 days of the completion of the forensic audit, the Joint Lender's Forum ("JLF") is required to meet and decide on the status of the account, either by consensus or the majority rule (60% majority).
- 4.10 In case, where FR does not conclude that a fraud has been perpetrated by the Company or its officers against the lenders, the banks may consider modifying the red flagging of the account and pursue the overall restructuring and debt resolution plan in terms of the ICA.
- 4.11 We have been engaged to advise as to whether on the basis of FR alone the Company's account, which was marked as red flagged by some of the banks, should be changed to "Fraud".
- 4.12 Our limited scope of this engagement is to give our views on whether the observations made in the FR, read with the Engagement Letter can lead to a conclusion that the Company account needs to be changed from red flag to fraud, in terms of the RBI Circular.



4.13 Thus, based on our limited scope and the documents placed in our hand by the Company, we give our comments on the observations made in the FR.

5. **Review of the findings/observations in the FR**

5.1 **Transactions with Potential Indirectly Linked Entities (PILE)**

5.1.1 The said observation is in regard to loans extended to PILE or to certain entities which cease to be related parties of group companies before disbursement of loans. These loans were extended to PILE, who are potentially linked to the Company, based on certain parameters as discussed in the FR. Further, there is an observation that in case of transactions with PILE, there have been the following assertions:

a) An Amount of Rs. 1,198.69 cr. potentially utilized for repayment of existing loans to the Company through:

- Potential ever greening of loans;
- Potential circular transactions;

b) An Amount of Rs. 2,161.09 cr. potentially transferred to related parties/group companies of the Company through:

- Proceeds of term loan indirectly transferred to related party through PILE;
- Proceeds of commercial papers transferred to related parties/group companies through PILE;
- Proceeds of securitization transferred to related parties/group companies through PILE.

5.1.2 The above is the summary of observations No. 1 made in the FR. The question that arises for a consideration is whether such observation can lead to a classification of fraud thereby impacting the change of status of Red flagged accounts.



- 5.1.3 The Forensic Audit is a fact-finding engagement and the accordingly Forensic Auditor has brought out the facts about the manner in which transactions has taken place. However, the FR brings out the facts of the case without any specific comments/observation in relation to the 'Mens Rea' i.e. the intention or knowledge of wrongdoing or the guilty mind.
- 5.1.4 The FR contains no observation which can lead to conclusion that lending by the Company to the alleged 47 PILE entities (including 9 entities that has ceased to be related parties of group companies before disbursal of loans), where in the funds ultimately seems to either have been onward lent to related parties/ group entities of the Company or utilized by other entities for repayment of loans to the Company, has resulted in:
- any violation/breach of the sanction terms of the lender banks; or
 - any breach of the restriction placed by the lender banks on the Company in relation to the onward direct/indirect lending to its group entities; or
 - any breach of the restriction placed on the Company in relation to the end use of funds raised through securitization/commercial paper and any breach/violation of such terms; or
 - any breach/violation of the undertaking/representation provided by the Company to the lender banks; or
 - fraud in any manner and if any such fraud has been committed, whether the same has been committed by any ascertained employees against the Company or is in the nature of a fraud committed by the Company against the lending bank.
- 5.1.5 The FR also contains no observations as regards the nature of fraud, if any, its description and parties involved. It would be imperative for the FR to have brought out the same before the banks continue the account as a Red Flagged or change it to a fraud.



5.1.6 The implications of change in the status of account to a fraud are quite enormous which can lead to irreversible damage, unintended hardships and losses not only to the Company but also to the banks. The transactions with the PILE brought out in the FR, do not conclude as to involvement of the Company or its officials with an intention to defraud the Company or banks.

5.1.7 In the circumstances, since there are no observations made in the said FR, as to whether the same lead to classification of account as a fraud, it cannot be inferred that the account can be classified as Fraud on the basis of the said observations in the FR.

5.2 **Potential Regulatory Anomalies**

5.2.1 In FR, the Forensic Auditor has brought out the Potential violation of National Housing Bank Act and also anomalies in calculation of Capital to Risk (Weighted) Assets Ratio ("CRAR"/ "Capital Adequacy").

5.2.2 The observation in the FR itself clearly depicts the potential 'anomalies' in compliances with the regulatory provisions. The mere breach of applicable regulatory norms by itself without the necessary intention may not constitute a fraud. The Violation of a particular regulatory norm may lead to regulatory action under the provisions of the applicable regulation, but the same may not be treated as a fraud for the purpose of classification of the account.

5.2.3 Similarly, anomalies in calculation of CRAR also may at the most lead to regulatory breach but may not result into classification of the borrower account as a fraud by the lending banks.

5.2.4 It may be further noted that in the FR it is observed that general purpose corporate loans granted to certain borrowers have been onward lent to certain sister concerns which belongs to Reliance ADA group.



The above facts brought out in the FR create a suspicion of fraud however, for the account to be classified as fraud in terms of the Circular, these observations are required to be conclusively mapped with the terms of sanction of the lending banks in respect of loans given, to conclude that there has been fraudulent diversion of funds, and/or with intent of unlawful gains.

5.3 **Loan Disbursement to Valuecorp Securities and Finance Ltd (Valuecorp) written off.**

5.3.1 The observation in FR is in regard to disbursement of loan to Valuecorp Securities and Finance Limited which has been written off within the period of Four (4) months from the date of disbursement.

5.3.2 Mere writing off the debt within the period of Four (4) months by the Company does not amount to fraud done by the Company on the lender banks. The FR does not bring out as to whether the Company was deceived by the borrower or there was fraud by Company in granting loan to such borrower. As per the Management Response, such loan was on-lend exposure to Reliance Communications Limited and was considered to be recoverable at the time of sanction as per Reliance Communications Limited's ongoing resolution plan. This exposure had to be written off as per prudential norms when it became certain that the debt resolution of Reliance Communications Limited was to be pursued under IBC. This may utmost reflect weakness in the sanctioning process, but the same cannot on a standalone basis have any implications or can cause any prejudice to Company for purpose of classification of the Company account by the lender banks.

5.4 **Anomalies in credit appraisal process**

5.4.1 The observation made in FR brings out certain anomalies observed them by FR in Credit Appraisal Process. The said observation only points towards weakness in the credit appraisal/disbursal process of the company but does not indicate an act of commission of a fraud.



5.4.2 In this connection it is also pertinent to note the management responses incorporated in the FR that loans were sanctioned by the Company based on underlying security and overall recoverability of loans, based on charge over borrower's assets, corporate guarantees of another group company Reliance Infrastructure Limited having net worth of Rs. 15,866 crore and net asset base of Rs. 19,816 crore, apart from the strength of the holding company Reliance Capital Limited which at the time of sanction had AA+ rating with net worth of Rs. 15,207 crore and asset base of Rs. 93,851 crore.

5.4.3 At best said observation in FR may require the Company to further strengthen its credit appraisal process. In any event, the same does not tantamount to fraud by the Company.

5.5 **Loan advanced to other entities.**

5.5.1 Observation in FR brings out loans granted to certain entities which did not had adequate repayment capacity. Again, as stated in para above, the above observation point towards lapses in credit appraisal process of the Company but does not indicate an act of commission of a fraud.

5.6 **Anomalies Identified During Loan File Review**

5.6.1 In observation No. 6 the various details of the borrower account to whom loan was granted under GPCL scheme by the Company have been listed wherein, financial statements, income tax return, quarterly CA certificate on end use of funds, KYC or other necessary documents/information required for the purpose of sanctioning of loan/post sanction monitoring were not found.



5.6.2 While the FR contains management response refuting any such lapses and stating that the same were as per laid own policies and procedures, the said observation in FR reflects the need to further strengthen the systems and processes as an ongoing process for any organization. The role of any person or representative of the Company with mala-fide intention which could lead to deficiency in the said documents or which could have impacted the decision making of sanctioning the loan is not brought out. It highlights lapses on the part of the Company representatives or non-compliance with the Company policies. It does not suggest that the said lending was done by the company to defraud the company or the lender banks.

5.7 **Overall Assessment**

- 5.7.1 The observation Seven (7) of the executive summary, is concluding statement wherein the observations have been summarized on corporate loans granted under GPCL which were disbursed to PILE and have been onward lent to another PILE / related parties / group entities.
- 5.7.2 It has been further observed that certain loans were given without considering the prudential lending norms related to repayment capacity and adequacy of security. The above loans granted as a GPCL did not align with the company's objectives of disbursing the housing loan.
- 5.7.3 The observation in the Para 7 to our understanding is the conclusion drawn on the basis of detailed observations made in FR and therefore, becomes the most important observation to take the decision for purpose of changing the status of the Company account by the lender banks from red flag to fraud. We have already given our detailed response to the observations No.1 (please refer para 5.1.4) in regard to transactions with PILE which addresses the concluding observation also.



- 5.7.4 The question that arises for consideration is whether the conclusion drawn in the FR can form the basis for changing the status of the account from the perspective of lending banks in terms of the Circular. For the purpose of classifying the said account as Fraud, the malafied intention of the Company or its representatives in obtaining loan from the lending banks for using the same for the purpose other than for which it was granted in accordance with the sanction terms needs to be brought out.
- 5.7.5 Pertinently, FR contains no finding suggesting or concluding that any fraud has been perpetrated either by the Company against the lending banks or by the employees against the Company.
- 5.7.6 In absence of any such observation, reference or conclusion in the FR, we are of the opinion that it would be incorrect to reach to a conclusion to classify the said borrower account as a fraud. The observation of FR may be relevant to ascertain the regulatory lapses, noncompliance with credit policies etc., but we do not think that the same may cause the account to be classified as fraud or be continued as a red flagged account.

6. **Conclusion**

In view of the above discussion, in our view, the FR cannot be the basis for purpose of classifying the borrower account, held by the lender banks in name of the Company, as a fraud or continuing as a red flagged.

7. **Limitations**

- 7.1 Our views are subject to the limitations detailed hereinafter. As such the opinion is to be read in totality, and not in parts, in conjunction with the relevant documents referred to therein and in context of the purpose for which it is made.



- 7.2 The Facts enumerated in the Opinion were circulated to the management for confirming the facts stated herein and to confirm that the information or the facts stated are not erroneous.
- 7.3 The scope of our engagement is limited to give our views on the applicability of the Circular in light of the "Final Report - Forensic Review" dated 2nd January, 2020 issued by the Forensic Auditor.
- 7.4 We do not take any responsibility for any changes in the information used for any reason, which may occur subsequent to the date of our opinion.
- 7.5 This opinion contained herein is absolutely confidential and is intended for the sole use of the Company. It should not be copied, disclosed, circulated, quoted or referred to, either in whole or in part, in correspondence or in discussion with any other person without our written consent.
- 7.6 This opinion is based on our understanding of the FR and the Circular. We have assumed that management has placed with us the correct copy of the FR and applicable circular for giving our views thereon.
- 7.7 Whilst all reasonable care has been taken to ensure that the facts stated in the report are accurate and the opinion given is correct, neither ourselves, nor any of our Partners, Officers or Employees shall in any way be responsible for the contents stated herein. Accordingly, we make no representation or warranty, express or implied, in respect of the completeness, authenticity or accuracy of our views. We expressly disclaim any and all liabilities, which may arise based upon the views given in this opinion. We are not liable to any third party in relation to the issue of this opinion.



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7.8 Chhajed & Doshi, Chartered Accountants nor any of its partners and employees make any representation or warranty, express or implied, as to accuracy, reasonableness or completeness of the opinion. All such parties expressly disclaim any and all liability for/or based on or relating to any such views contained in the Opinion.

7.9 The decision to rely upon the Opinion lies entirely with the Company or its management or person relying upon the same and shall not constitute a recommendation as to whether or not a decision should be taken in a particular manner.



Chhajed & Doshi

CHHAJED & DOSHI

Chartered Accountants

Place: Mumbai

Date: 10th January 2020