



Hindustan Unilever Limited

Hindustan Unilever Limited
Unilever House
B D Sawant Marg
Chakala, Andheri East
Mumbai 400 099

Tel: +91 (22) 3983 0000
Web: www.hul.co.in
CIN: L15140MH1933PLC002030

28th September, 2018

To,

**Listing – Compliance Department
National Stock Exchange of India Limited
Exchange Plaza, C-1, Block G,
Bandra-Kurla Complex, Bandra (East)
Mumbai 400 051**

This is with reference to your observation letter bearing reference no. NSE/LIST/64551 dated 9th March 2016, regarding the Scheme of Arrangement between the Company and its Members to reclassify and transfer the amounts lying to the credit of the General Reserves to the 'Profit and Loss Account' filed by the Company.

We wish to inform you that the Hon'ble National Company Law Tribunal, Mumbai Bench, vide its order dated 30th August, 2018, has sanctioned the aforesaid Scheme of Arrangement.

Certified Copy of the Order, received by the Company on 28th September, 2018, is enclosed for your records.

For Hindustan Unilever Limited

**Dev Bajpai
Executive Director (Legal and Corporate Affairs)
and Company Secretary
DIN : 00050516 / FCS: 3354**



AsT



Hindustan Unilever Limited

Hindustan Unilever Limited
Unilever House
B D Sawant Marg
Chakala, Andheri East
Mumbai 400 099

28th September, 2018

Tel: +91 (22) 3983 0000
Web: www.hul.co.in
CIN: L15140MH1933PLC002030

To,

The General Manager The Bombay Stock Exchange Limited Department of Corporate Services P.J. Towers, Dalal Street Mumbai- 400 001	Listing – Compliance Department National Stock Exchange of India Limited Exchange Plaza, C-1, Block G, Bandra-Kurla Complex, Bandra (East) Mumbai 400 051
---	---

This is with reference to your observation letter regarding the Scheme of Arrangement. As required by the exchange, below is the Complaints Report as on date as per SEBI Circular CIR/CFD/CMD/16/2015 dated November 30, 2015.

Part A

Sr. No.	Particulars	Number
1.	Number of complaints received directly	Nil
2.	Number of complaints forwarded by Stock Exchange	Nil
3.	Total Number of complaints/comments received (1+2)	Nil
4.	Number of complaints resolved	Nil
5.	Number of complaints pending	Nil

Part B

Sr. No.	Name of complainant	Date of complaint	Status (Resolved/Pending)
1.	Not Applicable		

For Hindustan Unilever Limited

Dev Bajpai
Executive Director (Legal and Corporate Affairs)
and Company Secretary
DIN : 00050516 / FCS: 3354

A45



IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH

TCSP No. 151 OF 2017

In the matter of Section 391 of the Companies Act, 1956 and Section 230-232 of the Companies Act, 2013, and other relevant provisions as applicable, and any amendments thereto or re-enactments thereof;

And

In the matter of Scheme of Arrangement amongst Hindustan Unilever Limited and its members.

Hindustan Unilever Limited

...Petitioner Company

Order Dated 30.08.2018

Coram: Hon'ble Shri B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Petitioner: Mr. Virag Tulzapurkar, Senior Advocate a/w Mr. Pheroze Mehta, Advocate a/w Mr. Tapan Deshpande and Ms. Priya Patwa, Advocates - i/b. Cyril Amarchand Mangaldas, Advocates for the Petitioner Company.

For Regional Director: Mr. S. Ramakantha, Joint Director

For Registrar of Companies: Mr. Ramesh K. Gholap, Deputy Registrar of Companies

Per Ravikumar Duraisamy, Member

ORDER

1. Heard Advocates for the Petitioner Company. Heard the representatives of Regional Director, Western Region ("RD") and Registrar of Companies, Ministry of Corporate Affairs, Mumbai ("ROC").
2. The Advocate appearing for the Petitioner Company states that the Petition has been filed to seek sanction to the Scheme of Arrangement amongst Hindustan Unilever Limited and its

A



members ("Scheme"), pursuant to the provisions of Sections 230 and other relevant provisions of the Companies Act, 2013 ("2013 Act") [erstwhile provisions of Sections 391 of the Companies Act, 1956 ("1956 Act")].

3. The Petitioner Company is engaged *inter alia* in the business of manufacturing, marketing, distribution and/or sale of soaps, detergents, personal care products, beverages, processed foods etc. The shares of the Petitioner Company are listed on the BSE Limited (BSE) and the National Stock Exchange of India Limited (NSE). The Petitioner Company had applied to the said stock exchanges for their no-objection to file the Scheme of Arrangement in the Hon'ble Bombay High Court for sanction. The BSE by its letter dated 8th March, 2016 and NSE by its letter dated 9th March, 2016 have given their no objection to file the Scheme of Arrangement in the High Court for sanction (after receiving comments from SEBI). The Scheme of Arrangement provides that upon coming into effect of the Scheme, the entire amount of Rs. 2,187.33 crores standing to the credit of the General Reserves of the Petitioner Company, as on the Appointed Date, shall be reclassified and credited to the 'Profit and Loss Account' of the Petitioner Company and subsequent thereto, such amounts credited to the Profit and Loss Accounts of the Petitioner Company shall be reclassified as and constitute accumulated profits of the Petitioner Company for the previous financial years, arrived at after providing for depreciation in accordance with the provisions of the 2013 Act and remaining undistributed in the manner provided in the 2013 Act and other applicable laws and amount so credited shall be paid to the



members of the Petitioner Company as per the discretion of the Board (regarding the mode, quantum and time of such Payout, subject to consideration of all relevant factors) from time to time in accordance with the provisions of the 2013 (erstwhile 1956 Act) and other applicable laws. The Learned Advocate for the Petitioner Companies says that the background, circumstances, rationale and significant benefits of the Scheme are as follows:

(a) The Petitioner Company has built up significant reserves from its retained profits by way of transfer to its General Reserves (*as defined in the Scheme*). While the excess reserves can be profitably utilized for the Petitioner Company's overall growth strategy, the Board of Directors of the Petitioner Company, is of the view that even after considering the foreseeable investments required for such opportunities over the next few years, the funds represented by the General Reserves are in excess of the Petitioner Company's current and anticipated operational needs.;

(b) In view of the Petitioner Company's strong cash flow delivery and the accumulated General Reserves being more than what is needed to fund growth, along with a view to providing greater flexibility for the utilisation of such funds, the Petitioner Company now proposes to transfer the amount lying to the credit of General Reserves to the head of 'Profit and Loss Account' under reserves & surplus to enable, *inter alia*, Payout to the Members (*as defined in the Scheme*), in such manner and to such extent, as the Board (*as defined in the Scheme*), in its sole discretion, may decide, from time to time and in accordance with the provisions of the Act and other applicable laws. The Board of Directors of the Petitioner Company has approved the said Scheme by passing its board resolution which is annexed to the

(11)



Petition. Pursuant to the directions of the Hon'ble Bombay High Court vide its order dated 29th April, 2016, meeting of the equity shareholders of Petitioner Company was held and the Scheme was approved by 1516 equity shareholders holding in aggregate 1,74,28,08,028 equity shares constituting 97.24% in number and representing 99.99% in holding of the equity shares which was more than the requisite majority in number and shareholding of the equity shareholders of the Petitioner Company who voted at the said meeting either in person or by proxy or by authorised representative at the meeting through e-voting and through remote e-voting.

4. The Advocate for the Petitioner Company states that the Petitioner Company has complied with all the directions passed by the Hon'ble Bombay High Court in the Company Summons for Direction No. 346 of 2016 and the Company Scheme Petition No. 659 of 2016 filed in the Hon'ble Bombay High Court and now transferred to this Tribunal and the same are in consonance with the order passed in the said Company Summons for Direction.
5. The Advocate appearing for the Petitioner Company has stated that the Petitioner Company has complied with all the requirements as per the directions of the Hon'ble Bombay High Court and it has filed necessary Affidavits of compliance in the Hon'ble Bombay High Court. Moreover the Petitioner Company undertake to comply with all statutory requirements, if any, as required under the Companies Act, 2013 and the Rules made thereunder. The said undertaking is accepted.



6. The Advocate appearing for the Petitioner Company has stated that the Petitioner Company had issued notice of date of hearing of the Petition to the RD on 2nd November, 2016 and further on 23rd November, 2016 also provided information as requested by the RD to enable the RD to file its report before the Hon'ble Bombay High Court. The Petitioner Company has also issued notice to the ROC on 18th November, 2016.
7. The RD has filed his Report dated 4th May, 2017 in this Tribunal *inter alia* raising certain observations to the Scheme therein. The observations made / contentions raised by the RD in the Report in respect of the Scheme are summarized as follows:
 - a. Scheme is framed to circumvent the provisions of Section 123 of the Companies Act 2013 and the Companies (Declaration & Payment of Dividend) Rules, 2014 ("2014 Rules");
 - b. The shareholding pattern indicates that 81.41% of reserves will be payable to Promoter & Promoter Group and Foreign Portfolio Investors. There will therefore be a reduction in Foreign Exchange Reserves to that extent;
 - c. The Petitioner Company should issue bonus shares to its shareholders instead of undertaking the Scheme;
 - d. As the Scheme is in violation of the provisions of the 2013 Act and 2014 Rules, it is not in the public interest;
 - e. Technical Scrutiny under Section 206(4) of the 2013 Act has been ordered in respect of the Scheme;
8. Affidavit in Reply to the Report of the RD dated 31st July, 2017 has been filed by the Petitioner Company.



9. The ROC has filed its Report dated 8th November, 2017 *inter alia* raising certain observations to the Scheme therein. The observations made / contentions raised by the ROC in the Report in respect of the Scheme are summarized as follows:

- a. Scheme is framed to circumvent the provisions of Section 123 of 2013 Act and the 2014 Rules;
- b. The Scheme is not an "arrangement" and hence cannot be filed under Section 391-394 of the 1956 Act or Section 230 - 232 of the 2013 Act;
- c. Mere Revision / Re-classification of Accounting Entries / Financial Statements is cloaked in the form of a Scheme. Accordingly, the same falls under Section 131 of the 2013 Act;
- d. The Scheme is incomplete / hypothetical since manner and extent of payout is not specified;
- e. The amount of Rs. 2187.33 crores is not a General Reserve but is instead 'Other Reserves - statutorily created under Section 205(2A) of the 1956 Act read with the Companies (Transfer of Profits to Reserves) Rules, 1975. Accordingly, proposed transfer vide the Scheme is illegal;
- f. Lack of transparency and good governance;
- g. Appointed date clause in the scheme is in violation of Section 232(6) and 232(3)(a) of the 2013 Act and hence needs amendment;
- h. Effective date clause in the scheme is in violation of Section 232(6) of the 2013 Act and hence needs amendment;



- i. There is a discrepancy between Issued and Subscribed Capital tabulated in the Scheme and the Balance Sheet;
- j. Accounting treatment provides for accounting an illegal accounting transaction of re-classification of items in the Balance Sheet cloaked through the Scheme;
- k. Board Resolution extending date beyond 31st March, 2017 needs to be produced before the Hon'ble NCLT;
- l. Powers to give directions in the interpretation and implementation of the Scheme have been given to the Board of Directors / committee as defined in the Scheme instead of to the Hon'ble NCLT;
- m. Scheme is sought to be made binding on all persons. However, the same cannot bind ROC / Ministry of Corporate Affairs to take legal prosecution and action for illegal re-classification / revision / transfer of amounts in the Balance Sheet as it would result in violation of Section 131(1) and 129(1), apart from non-compliance of Section 391 - 394 and 230 - 232 of the 1956 and 2013 Act respectively;
- n. The approval of the Board of Directors for the Scheme and subsequent General Body Resolution are allegedly void ab initio as they are passed in violation of Sections 131(1), 129(1) and 230 - 232 of the 2013 Act;
- o. Articles of Association of the Petitioner Company do not authorize such reverse transfer / re-classification / revision of Reserves back to Profit and Loss Account;



p. Breakup of Rs. 2187.33 crores remain not clear / uncertain and cannot be said to be primarily built as disclosed in the Scheme.

10. Affidavit in Reply to the Report of the RD dated 14th November, 2017 has been filed by the Petitioner Company.

11. The Petitioner Company has also filed Written Submissions. The RD has also filed brief Written Submission.

12. With regard to the observations of the RD set out in Paragraph 7(a) and the ROC set out in Paragraph 9(a) hereinabove, Advocate appearing for the Petitioner Company submits *inter alia* as follows:

- (i) That the ROC and RD's observations in this regard proceed on an incorrect analysis of the Scheme of Arrangement and on the incorrect premise that the Scheme is for payment of dividend to the Members of the Petitioner Company from the General Reserves;
- (ii) The Arrangement between the Petitioner Company and its Members is for the entire amount of Rs. 2,187.33 crores lying in the Petitioner Company's 'General Reserves' to be credited / transferred to the balance of the 'Profit and Loss Account' of the Petitioner Company shall be reclassified as and constitute accumulated profits of the Petitioner Company for the previous financial years, arrived at after providing for depreciation in accordance with the provisions of the Act and remaining undistributed in the manner provided in the Act and other applicable laws.;



- (iii) There is no provision either in the 1956 Act, the 2013 Act or any other law which prohibits a company from crediting amounts standing in the General Reserve to the Surplus of the Profit and Loss Account. There is therefore no restriction in law in relation to the treatment of general reserves as envisaged under the Scheme;
- (iv) 2nd proviso to Section 123(1) and the 2014 Rules apply only in years when there is an inadequacy or absence of profit. It does not apply when there is no inadequacy or absence of profit in any particular year. This is not a case of a year of inadequacy or absence of profit;
- (v) 2nd proviso to Section 123 (1) and the 2014 Rules (relied upon by the RD & ROC) do not apply at all. Consequently, the RD's contention that the 2nd proviso to Section 123 (1) and the 2014 Rules are required to be complied with is based on an incorrect appreciation of the provisions of the 2013 Act and 2014 Rules.
- (vi) It is therefore incorrect to state that the Scheme has been framed to circumvent the provision of Section 123(1) of the 2013 Act or the 2014 Rules.;
- (vii) The Scheme is not prohibited under any provision of law and is not contrary to Section 123 of the 2013 Act or the 2014 Rules;
- (viii) A substantially similar scheme has been sanctioned by the Hon'ble Delhi High Court - Nestle India Ltd., In re [2009] 147 Comp. Cas. 712 (Delhi).



13. With regard to the observations of the ROC set out in Paragraph

9(b) hereinabove, Advocate appearing for the Petitioner Company submits as *inter alia* follows:

- (i) Sections 391 to 394 of the 1956 Act or Sections 230 - 232 of the 2013 Act permit a company to undertake, *inter alia*, schemes of arrangement with its members or creditors;
- (ii) The fact that the Scheme does not contemplate a compromise between the Petitioner Company and its creditors does not in any way invalidate the Scheme or make it unviable under the applicable provisions as the Scheme is an arrangement between the Petitioner Company and its Members;
- (iii) The word "arrangement" as defined in Section 390(b) of the 1956 Act and the Explanation to Section 230(1) of the 2013 Act is an inclusive and not an exhaustive definition;
- (iv) It is well settled that the word "arrangement" is a term of wide import [In Re Investment Corporation of India [1987] 61 Comp. Cas. 92 - Pg. 96 (Bombay High Court); In Re: W.S. Industries (India) Ltd. (2004) 51 SCL 53 (Mad) - Para. 8 - 12; Larsen and Toubro Limited, In re [2004] 121 Comp. Cas. 423 - Pg. 562 - 564 (Bombay High Court); Re T&N Ltd. and other companies [2006] EWHC 1447 (Ch) - Para. 46, 48.]
- (v) In Gower and Davies' Principles of Modern Company Law (Ninth Edition) it is stated as follows (at Pg. 1107):

"...the courts have construed "arrangement" as a word of very wide import and as not to be read down by its association with the word "compromise" in the section, so that an arrangement involving members need not, and usually does not, involve an element of compromise. The



term covers almost every type of legal transaction..."
(Emphasis supplied.)

- (vi) In Nestle's Case (supra) the Delhi High Court has sanctioned a substantially scheme of arrangement under Sections 391 - 394 of the 1956 Act, and has therefore considered such a scheme to be an arrangement;
- (vii) In light of the definition of "arrangement" and judicial pronouncements on the import of the said term, which is of wide ambit and import, there is no basis for the ROC to suggest that the Scheme contemplated does not constitute an arrangement between the Petitioner Company and its Members.

14. With regard to the observations of the ROC set out in Paragraph 9(c) hereinabove, Advocate appearing for the Petitioner Company submits *inter alia* as follows:

- (i) The contentions of the ROC proceed on an incorrect appreciation of Section 131(1) of the 2013 Act;
- (ii) Section 131 does not contain the term "reclassification". It pertains to revision of the balance sheet or Board report;
- (iii) The word "reclassification" used in the Scheme is not a defined term and has not been used as purported to be understood by the ROC and RD in Sections 131, 129 and 134 of the Companies Act, 2013 and has been used in the ordinary sense of the word;
- (iv) Section 131 of the 2013 Act, which deals with voluntary revision of financial statements or the Board's report, has absolutely no applicability in the present case;
- (v) Section 131 is required to be resorted to only if the financial statements or the Board's Report do not comply with the



- provisions of Section 129 or Section 134 of the 2013 Act respectively;
- (vi) Section 129 requires financial statements to give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under Section 133 and be in the form or forms as may be provided.
- (vii) The Scheme is neither an attempt to nor amounts to a re-classification / revision of entries / balances in the balance sheet of the company as contended by the ROC;
- (viii) This is not a case which falls under Section 133 or Section 129, therefore going under Section 131 does not arise at all;
- (ix) There are many cases in which Court have approved restructuring of general reserves through court approved schemes of arrangement under Sections 391 - 394 of the 1956 Act including Nestle India Ltd. (supra) .
- (x) Consequently, the ROC's observations in this regard ought to be rejected.

15. With regard to the observations of the ROC set out in Paragraph 9(d) hereinabove, Advocate appearing for the Petitioner Company submits *inter alia* as follows:

- (i) The Arrangement between the Petitioner Company and its Members is for the entire amount of Rs. 2,187.33 crores lying in the Petitioner Company's 'General Reserves' to be credited / transferred to the balance of the 'Profit and Loss Account' of the Petitioner Company which is to be reclassified as and constitute accumulated profits of the Petitioner Company for the previous financial years, arrived



at after providing for depreciation in accordance with the provisions of the Act and remaining undistributed in the manner provided in the Act and other applicable laws.;

- (ii) It is only consequent thereto that payout to the Petitioner Company's Members from time to time by the Board of Directors (in accordance with the 2013 Act, other applicable laws) will be made;
- (iii) Clause 5.2 of the Scheme clearly provides that the payout (including the quantum, manner and timing thereof) will be undertaken at the discretion of the Board of Directors in accordance with the provisions of the 1956 Act and the 2013 Act and other applicable laws, taking into account all relevant factors including applicable regulatory and fiscal considerations, the nature and quantum of each payout and subject to payment of applicable taxes;
- (iv) The Petitioner Company is a successful company which has demonstrated consistent growth, sustained improvement in profitability and robust cash generation over the years. The Petitioner Company has maintained a strong track record of operating cash generation and distribution to its shareholders. The Petitioner Company has net cash and cash equivalent and investments of Rs. 5,056.34 Crores as on 31st March, 2016, and does not have any secured or unsecured loans, fixed deposits or preference shares, which entail repayment obligations;
- (v) The Petitioner Company has a strong track record of paying regular dividends to its shareholders - cumulative dividends to the tune of Rs. 15,335.73 crores have been declared during the period from Financial Year 2010 - 11 to Financial



Year 2014 - 15, which has been confirmed by the RD in his Report;

- (vi) The funds transferred out of its profits under Section 205(2A) of the 1956 Act which are accumulated and represented in the General Reserves are in excess of the company's current and anticipated operational needs, even after considering the foreseeable investments required for opportunities vis. a vis. the company's overall growth strategy;
- (vii) Further, although the Scheme the mechanism for payouts (including the quantum, manner and timing thereof) is left to the discretion of the Board of Directors after taking into account all relevant factors, as provided in Clause 5 of the Scheme, illustratively set out below are the details of the aggregate amount of dividend that has been declared and paid by the Petitioner Company annually for the last 12 Years:

Dividend Declared	2006	2007	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Interim	3.00	3.00	3.50	3.00	3.00	3.50	4.50	5.50	6.00	6.50	7.00	8.00
Special		3.00					8.00					
Final	3.00	3.00	4.00	3.50	3.50	4.00	6.00	7.50	9.00	9.50	10.00	---
Total	6.00	9.00	7.50	6.50	6.50	7.50	18.50	13.00	15.00	16.00	17.00	8.00
Total Amount In Crores	13.77	19.09	16.45	14.00	14.38	16.06	39.88	28.75	32.32	34.56	36.45	17.58

- (viii) It may be noted from the above that the entire amount of Rs. 2,187.33 crores lying in the Petitioner Company's 'General Reserves' to be credited to the balance of the 'Profit and Loss Account' of the Petitioner Company and be reclassified as and constitute accumulated profits of the Petitioner Company for the previous financial years, arrived



at after providing for depreciation in accordance with the provisions of the Act and remaining undistributed in the manner provided in the Act and other applicable laws, for payout to the Petitioner Company's Members from time to time by the Board of Directors, in the event determined to be made through dividend, is well within the amount of dividend declared and paid by the Petitioner Company on an annual basis in each of the last 5 years i.e.. the amount of dividend declared by the Petitioner Company in each of the last 5 years is larger than the entire amount of Rs. 2,187.33 lying in the Petitioner Company's 'General Reserves';

- (ix) With regard to the observations of the RD set out in Paragraph 7 (b) - (e) ROC set out in Paragraph 9 (e) - (p) hereinabove, Advocate appearing for the Petitioner Company submits that each of the aforesaid observations made / contentions raised have been dealt with extensively by the Petitioner Company in its Written Submissions filed on 4th April, 2018.

16. On a query raised by the Bench as to whether the Scheme is in compliance of Accounting Standard, the Advocate for the Petitioner Company submitted that the Petitioner Company in its Affidavit in Reply to the ROC Report, dated 14th November, 2017 has provided a Certificate from the Auditor of the Petitioner Company certifying that the accounting treatment contained in the Scheme is in compliance with SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the Circulars issued thereunder and all applicable accounting standards notified by the Government of India under the 2013 Act.



17. On a query raised by the Bench as to whether the Scheme is in public interest the Advocate for the Petitioner Company submitted *inter alia* as follows:

- (i) That the Scheme is not prejudicial to the public interest in any way;
- (ii) There is no provision either in the 2013 Act or any other law that prohibits the crediting / transfer of amounts lying in 'General Reserves' to the 'Profit and Loss Account.' Consequently, the Scheme does not violate any law;
- (iii) The Scheme neither affects the general public in any manner nor causes any loss or detriment to any public authority;
- (iv) Neither the RD nor ROC has been able to show any specific adverse impact on public interest by sanction of this Scheme. It is respectfully submitted that it is incumbent upon the RD / ROC to highlight specifically how the Scheme, its incidents or consequences have an alleged adverse impact on public interest. No scheme can be rejected on the basis of hypothetical assumptions and it has to be shown specifically how the public interest is allegedly prejudiced by this Scheme [Hindustan Lever Employees' Union v. Hindustan Lever & Ors. AIR 1995 SC 470 - para. 82];
- (v) Only the shareholders' interest is not equivalent to "public interest", it is respectfully submitted that this Scheme is also not prejudicial to the interests of the shareholders of the Petitioner Company (including the public shareholders) in any way;
- (vi) In fact Scheme is also in the interest of the public shareholders of the Petitioner Company as they will be the



beneficiaries of the amounts distributed pursuant to the crediting / transfer of the amounts from the General Reserves to the Profit and Loss Account;

- (vii) The Scheme is neither discriminatory nor injurious to the public shareholders of the Petitioner Company in any way;
- (viii) Significantly the shareholders of the Petitioner Company, including public shareholders, who voted in respect of this Scheme, voted overwhelmingly in favour of it.

18. The observations made by the RD and the ROC have been explained by the Petitioner Company as above and in the Written Submissions filed on 4th April, 2018. The counsel appearing for the Petitioner Company during the hearing on 21.01.2018 has placed reliance upon the decision of Hon'ble Madras High Court in In. Re RBR Knit Process Pvt. Ltd., [2007] 138 Comp Cas 176 (Mad), to state that it does not require specific authorization contained in its Articles of Association for such transfer of Reserves to Profit and Loss Account as it can be done as per the provisions of Companies Act. The Tribunal has gone through in detail the observations made by the RD and the ROC and we are satisfied with the explanation and clarification given by the Petitioner Company.

19. The Bench has further observed that the scheme is approved by 97.24% shareholders in number and 99.99% shareholding in value. The company has demonstrated a positive and consistent track record in generation of operating cash and distribution of profits to its shareholders. The Company has Rs.5,056.34 crores of net cash, cash equivalents and investments as on 31.03.2016 and does not have any repayment obligations related to secured



or unsecured loans, fixed deposits or preference shares, even after taking into account the foreseeable investment required over the next few years. The company has distributed regular dividends to its shareholders during the last 12 Financial Years. The Company has paid a cumulative dividend of Rs. 15,335.75 crores from Financial Year 2010-11 to 2014-15. It is also noted that the company has distributed an average of nearly Rs.2986 crores as dividend in the past 5 Financial Years. In view of the concerns raised by the Regional Director and Registrar of Companies, this Bench directs the Company/Board of Directors to obtain prior approval of its shareholders (through AGM/EGM) on any occasion/events in which outflow is more than Rs.100 crores other than as Dividend. The Petitioner Company has to comply with all applicable Tax Legislations and has to pay all taxes consequent to the proposed Scheme of Arrangement, if any. Considering the above aspects we are therefore satisfied with the explanation and clarification given by the Petitioner Company to the query raised by the Bench. We are therefore of the view that the Scheme is required to be sanctioned.

20. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public interest or public policy.

21. Since all the requisite statutory compliances have been fulfilled, Transfer Company Scheme Petition No. 151 of 2017 filed by the Petitioner Company is made absolute in terms of prayer clauses (a) and (b).



22. The Petitioner Company to lodge a copy of this order along with the sanctioned Scheme attached thereto with the concerned Collector of Stamps, for the purpose of adjudication of stamp duty payable, if any, within 60 days from the date of receipt of the certified copy of this order.
23. The Petitioner Company is directed to file copy of this order along with a copy of the sanctioned Scheme attached thereto with the concerned Registrar of Companies, electronically, along with e-form INC 28 within 30 days of receipt of certified copy of this order along with the sanctioned Scheme.
24. The Petitioner Company to individually pay costs of the Transfer Company Scheme Petition of RS. 25,000/- to the Regional Director, Western Region, Mumbai. Costs to be paid within four weeks from the date of the order.
25. All concerned authorities to act on a copy of this order along with the sanctioned Scheme, duly certified by the officer of National Company Law Tribunal, Mumbai Bench.

SD/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

SD/-

B.S.V. PRAKASH KUMAR
MEMBER (JUDICIAL)

Certified True Copy
Date of Application 22-06-2018
Number of Pages 19
Fee Paid Rs. 95
Applicant called for collection copy on 27-09-2018
Copy prepared on 27-09-2018
Copy Issued on 27-09-2018



Assistant Registrar
National Company Law Tribunal, Mumbai Bench



**SCHEME OF ARRANGEMENT
AMONGST
HINDUSTAN UNILEVER LIMITED
AND
ITS MEMBERS**

UNDER SECTIONS 391 TO 394 OF THE COMPANIES ACT, 1956

PART A - GENERAL

1. Introduction

- 1.1 Hindustan Unilever Limited is a public limited company, originally incorporated under the Indian Companies Act, 1913 and continuing its existence under the Act (as defined hereinafter) and having its registered office at Unilever House, B. D. Sawant Marg, Chakala, Andheri (East) Mumbai 400 099 (the "Company"). The Company is one of India's leading fast moving consumer goods ("FMCG") companies and has been present in India for more than 80 years. The Company is engaged in various businesses including manufacture, marketing, distribution and/or sale of soaps, detergents, personal care products, beverages, processed foods, etc. in domestic and export markets. The equity shares of the Company are listed on BSE Limited and on the National Stock Exchange of India Limited.
- 1.2 The Company's portfolio includes, *inter alia*, the following brands: Lux, Lifebuoy, Surf Excel, Rin, Wheel, Fair & Lovely, Pond's, Vaseline, Lakmé, Dove, Clinic Plus, Sunsilk, Pepsodent, Closeup, Axe, Brooke Bond, Bru, Knorr, Kissan, Kwality Wall's and Pureit. The Company has been able to build large brands, 16 (sixteen) brands of the Company featured in the 'Most Trusted Brands' 2014 edition and 10 (ten) brands of the Company featured in BrandZ™ Top 50 Most Valuable Indian Brands.
- 1.3 The Company has demonstrated consistent growth, sustained improvement in profitability and robust cash generation over the years. The key financial highlights that demonstrates strong operating performance of the Company are as follows :

**CERTIFIED TRUE COPY
HINDUSTAN UNILEVER LIMITED**


**DEV BAJPAI
COMPANY SECRETARY**



Parameter	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
Gross Sales (Rs. Crores)	20,285.44	22,800.32	26,679.76	28,947.06	32,086.32
EBIT (% of Gross Sales)	12.1%	13.5%	14.1%	14.6%	15.3%
Return on Capital Employed	88%	97%	109%	130%	128%
Cash generated from operations^ (Rs. Crores)	2,551.80	3,543.85	4,546.05	5,007.87	5,049.35
Earnings Per Share (Rs.)	10.58	12.46	17.56	17.88	19.95
Dividend Per Share (Rs.)	6.50	7.50	18.50*	13.00	15.00
Capex (Rs. Crores)	311	310	409	527	526
Capex as % of Gross Sales	1.5%	1.4%	1.5%	1.8%	1.6%
Dividend Payout Ratio#	71.2%	70.0%	122.6%	84.6%	89.9%

^ Cash generated from operations before working capital changes+ Adjustment for working capital changes,

* Includes Special Dividend of Rs 8 per share

Inclusive of Dividend Distribution Tax (DDT)

- 1.4 The Company has a strong track record of paying regular dividends to its shareholders. The Company has declared cumulative dividends (including dividend distribution tax) to the tune of Rs. 15,335.73 Crores (Fifteen Thousand Three Hundred Thirty Five Crores and Seventy Three Lakhs only) during the period from Financial Year 2010-11 to Financial Year 2014-15.
- 1.5 The Company follows a distributed and asset-light manufacturing model with capacity enhancements being managed judiciously through a combination of productivity improvements to existing assets and addition of new assets through fresh capital expenditure. The Company incurred a cumulative capital expenditure of Rs. 2083.60 Crores (Two Thousand Eighty Three Crores and Sixty Lakhs only) during the period from Financial Year 2010-11 to Financial Year 2014-15 which is only 1.6% of cumulative gross sales during the same period.
- 1.6 The robust growth in sales, strong margin profile and low capital expenditure requirement for continuing operations has helped the Company maintain a strong track record of operating cash generation and distribution to its shareholders.



- 1.7 The Company has net cash & cash equivalent and investments of Rs. 5,161 Crores (Five Thousand One Hundred Sixty One Crores only) as on 31 March 2015. The Company does not have any secured or unsecured loans, fixed deposits or preference shares which entail repayment obligations.
- 1.8 The Company has built up significant reserves from its retained profits by way of transfer to its General Reserves (*as defined hereinafter*). While the excess reserves can be profitably utilized for the Company's overall growth strategy, the Board of Directors (*as defined hereinafter*) of the Company is of the view that even after considering the foreseeable investments required for such opportunities over the next few years, the funds represented by the General Reserves are in excess of the Company's current and anticipated operational needs.
- 1.9 In view of the Company's strong cash flow delivery and the accumulated General Reserves being more than what is needed to fund growth, along with a view to providing greater flexibility for the utilisation of such funds, the Company now proposes to transfer the amount lying to the credit of the General Reserves to the 'Profit and Loss Account' to enable, *inter alia*, Payout to the Members (*as defined hereinafter*), in such manner and to such extent, as the Board (*as defined hereinafter*), in its sole discretion, may decide, from time to time and in accordance with the provisions of the Act and other applicable laws.
- 1.10 In view of the aforesaid and in the interest of transparency and good corporate governance, the Company has proposed this Scheme of Arrangement between the Company and its Members under Sections 391 to 394 of the Act, pursuant to which and upon its coming into effect, the entire amount of Rs. 2,187.33 Crore (Rupees Two Thousand One Hundred Eighty Seven Crores and Thirty Three Lakhs only) lying in the General Reserves of the Company, as of the Appointed Date (*as defined hereinafter*), be credited to the balance of the 'Profit and Loss Account' of the Company, to enable, *inter alia*, Payout to its Members as per the discretion of the Board (regarding the mode, quantum and time of such Payout, subject to consideration of all relevant factors), from time to time in accordance with the provisions of the Act and other applicable laws, pursuant to Sections 391 to 394 and other relevant provisions of the Act, and various other matters consequential to or otherwise integrally connected with the above.
- 1.11 The Scheme is divided into the following parts:
- (a) **Part A**, which deals with the introduction and definition and sets out the share capital and details of reserves and surplus of the Company;
 - (b) **Part B**, which deals with utilisation and reclassification of amounts standing to the credit of the General Reserves for the purpose of Payout to Members, as per the discretion of the Board of Directors, from time to time; and
 - (c) **Part C**, which deals with the general terms and conditions.



2. **Definition and Interpretation**

2.1 In this Scheme, unless inconsistent with the subject or context, the following expressions shall have the following meanings:

“Act” means the Companies Act, 2013 (to the extent of the sections thereof that have been brought into force) and the Companies Act, 1956 (to the extent of the sections thereof that have not been repealed);

“Appointed Date” means opening of business on 1st April, 2015, or such other date as may be determined by the Board of Directors of the Company;

“Board of Directors” or “Board” means the Board of Directors of the Company and shall include a Committee duly constituted and authorised for the purposes of matters pertaining to the Scheme and/or any other matter relating thereto;

“Capital Reserves” means and includes the capital reserves, capital redemption reserve and the securities premium account as reflected in the accounts of the Company;

“Company” shall have the meaning assigned to it in Clause 1.1;

“Effective Date” means the last of the dates on which all the conditions and matters referred to in Clause 7 of this Scheme occur or have been fulfilled or waived in accordance with this Scheme. References in this Scheme to date of ‘coming into effect of the Scheme’ or ‘effectiveness of the Scheme’ shall mean the Effective Date;

“General Reserves” means and includes the General Reserves of the Company which have been built primarily through transfer of retained undistributed profits, pursuant to the provisions of the Companies Act, 1956 and the erstwhile rules notified thereunder, namely, the Companies (Transfer of Profits to Reserves) Rules, 1975 and which forms a part of the revenue reserves of the Company, as reflected in the accounts of the Company;

“Governmental Authority” means any applicable Central, State or Local Government, legislative body, regulatory or administrative authority, agency or Commission, including a Stock Exchange or any Court, Tribunal, Board, Bureau, instrumentality, judicial or arbitral body;

“High Court” shall mean the High Court of Judicature at Bombay having jurisdiction in relation to the Company and shall include the National Company Law Tribunal, as applicable, or such other forum or authority as may be vested with any of the powers of a High Court for the purposes of Sections 391 to 394 of the Companies Act, 1956 or Sections 230 to 232 of the Companies Act, 2013, as may be applicable;



"Member" means every person holding shares of the Company at the relevant time and the term "Members" shall be construed accordingly;

"Registrar of Companies" means the Registrar of Companies, Maharashtra;

"Scheme" mean this Scheme of Arrangement, as amended or modified in accordance with the provisions hereof;

"SEBI" means the Securities and Exchange Board of India; and

"SEBI Scheme Circular" means Circular No. CIR/CFD/CMD/16/2015 dated November 30, 2015 on Scheme of Arrangement by Listed Entities, and shall include any statutory modifications, re-enactment or amendments thereof.

- 2.2 References to clauses, sub-clauses and recitals, unless otherwise provided, are to clauses, sub-clauses and recitals of and to this Scheme.
- 2.3 The headings herein shall not affect the construction of this Scheme.
- 2.4 Any phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 2.5 Unless the context otherwise requires:
- (i) the singular shall include the plural and vice versa; and references to one gender include all genders; and
 - (ii) references to any law or to any provision thereof shall include references to any such law or to any provision thereof as it may, after the date hereof, from time to time, be amended, supplemented or re-enacted, or to any law or any provision which replaces it, and any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision.
- 2.6 Reference to a person includes any individual, firm, body corporate (whether incorporated or not), Governmental Authority, or any joint venture, association, partnership, works council or employee representatives body (whether or not having separate legal personality).



3. Share Capital and General Reserves

3.1 The Share Capital structure of the Company as on 31st March 2015 is as under:

A. Authorised Share Capital	Amount in Rs.
2,250,000,000 equity shares of Re. 1 each	2,250,000,000
Total	2,250,000,000

B. Issued and Subscribed Share Capital	Amount in Rs.
2,216,583,827 equity shares of Re. 1 each	2,216,583,827
Total	2,216,583,827

C. Full Paid up Share Capital	Amount in Rs.
2,163,464,851 equity shares of Re. 1 each	2,163,464,851
Total	2,163,464,851

- * The difference between total issued and subscribed share capital and fully paid up share capital of the Company is due to the buyback made from open market as per special resolutions passed through postal ballot on 14th September 2007 and 26th July 2010. The total number of shares bought back under the scheme was 30,235,772 and 22,883,204 respectively.
- ** During the period 1st April 2015 to 31st December, 2015, the Company has issued 405,971 equity shares under its employee stock option schemes. Accordingly, as on 31st December, 2015, the issued capital and paid up capital of the Company was 2,216,989,798 equity shares of Re. 1/- each and 2,163,870,822 equity shares of Re. 1/- each respectively.



- 3.2 The details of employee stock option schemes of the Company as on 31st March 2015 are as follows:

Sr. No.	Name of the Employee Stock Option Scheme	Options Outstanding	Vesting Condition	Exercise Period
1.	2001 HLL Stock Option Plan	23,100	3 years from date of grant	7 years from date of vesting
2.	2006 HLL Performance Share Scheme	364,566	3 years from date of grant	3 months from date of vesting
3.	2012 HUL Performance Share Scheme	747,221	3 years from date of grant	3 months from date of vesting

During the period 1st April, 2015 to 31st December, 2015, the Company has issued 405,971 equity shares under the ESOP Scheme

Exercise of any balance outstanding stock options may result in an increase in the issued, subscribed and paid-up share capital of the Company.

- 3.3 The Reserves and Surplus of the Company, including the General Reserves, as per the audited Balance Sheet of the Company as of the Appointed Date, are as under:

	Rs. Crores
Total Reserves & Surplus	3508.43
General Reserves (as defined and referred to in this Scheme)	2187.33
Other reserves and surplus not forming part of the reclassification specified in Part B of this Scheme	
Capital Reserve	4.22
Capital Redemption Reserve	6.46
Securities Premium Account	81.16
Revaluation Reserve	0.67
Employee Stock Options Outstanding Account	42.80
Capital Subsidy	6.19
Other Reserves	2.51
Surplus in Statement of Profit and Loss	1177.09

- 3.4 The Scheme does not seek to reduce or otherwise alter the issued, subscribed and paid-up share capital of the Company in any manner and the same will, therefore, remain unaltered as a result of the Scheme. Similarly, the Scheme does not affect the Capital Reserves in any manner.



PART B - RECLASSIFICATION AND UTILISATION OF THE GENERAL RESERVES AND PAYOUT TO MEMBERS

4. Reclassification and utilisation of the General Reserves

- 4.1 The General Reserves of the Company, as on the Appointed Date being Rs. 2,187.33 Crore (Rupees Two Thousand One Hundred Eighty Seven Crores and Thirty Three Lakhs only) have been, primarily, built up over the years through the transfer of profits to the reserves by the Company (prior to declaration of dividend) in accordance with the provisions of the Companies Act, 1956 and the erstwhile rules notified thereunder, namely, the Companies (Transfer of Profits to Reserves) Rules, 1975.
- 4.2 Upon this Scheme becoming effective and with effect from the Appointed Date, the entire amount of Rs. 2,187.33 Crore (Rupees Two Thousand One Hundred Eighty Seven Crores and Thirty Three Lakhs only) standing to the credit of the General Reserves of the Company shall be reclassified and credited to the 'Profit and Loss Account' of the Company, and subsequent thereto, such amounts credited to the 'Profit and Loss Account' of the Company shall be reclassified as and constitute accumulated profits of the Company for the previous financial years, arrived at after providing for depreciation in accordance with the provisions of the Act and remaining undistributed in the manner provided in the Act and other applicable laws. It is clarified that such amounts shall be available for utilisation by the Company in relation to any Payout in the manner set out in Clause 5 below.

5. Payout of Surplus Funds to Members

- 5.1 Upon the Scheme becoming effective and subsequent to the reclassification of the amounts standing to the credit of the General Reserves and credit thereof to the 'Profit and Loss Account' pursuant to Clause 4 of the Scheme, the amount so credited shall be paid out to the Members of the Company, from time to time, by the Board of Directors, at its sole discretion, in such manner, quantum and at such time as the Board of Directors may decide (each such event constituting a "Payout").
- 5.2 Each Payout of surplus funds (including the quantum, manner and timing thereof) shall be undertaken in accordance with the provisions of the Act, the Scheme and other applicable laws, taking into account all relevant factors including applicable regulatory and fiscal considerations, the nature and quantum of each Payout and subject to payment of applicable taxes.

6. Accounting Treatment

- 6.1 Upon this Scheme becoming effective and with effect from the Appointed Date:

The entire amount of Rs. 2,187.33 Crore (Rupees Two Thousand One Hundred Eighty Seven Crores and Thirty Three Lakhs only) standing to the credit of the General Reserves of the Company shall be reclassified and credited to the 'Profit and Loss Account' of the Company.



6.2 For the removal of doubt, it is expressly recorded and clarified that the transfer of amounts standing to the credit of the General Reserves and utilisation of such amounts through each Payout, shall not in any manner involve distribution of Capital Reserves or revenue reserves other than the General Reserves.

7. Scheme Conditional On

7.1 The Scheme is conditional on and subject to:

- (a) the Scheme being approved by the requisite majority of the Members of the Company as required under the Act, unless such meeting is otherwise dispensed with by the High Court;
- (b) the High Court having accorded its sanction to the Scheme;
- (c) the approval/comments of SEBI in terms of the SEBI Scheme Circular being obtained upon this Scheme being sanctioned by the High Court, if applicable;
- (d) such other approvals and sanctions of any Governmental Authority as may be required in respect of the Scheme being obtained; and
- (e) the certified copy of the order of the High Court approving the Scheme being filed with the Registrar of Companies.

7.2 The approval of the Scheme by the Members shall be deemed to be sufficient for the purposes of effecting the re-classification of the amounts standing to the credit of the General Reserves and credit thereof to the 'Profit and Loss Account' and no further resolution under any other applicable provisions of the Act would be required to be separately passed.

7.3 In the event of this Scheme failing to take effect by 31st March 2017 or such later date as may be agreed by the Board of Directors, this Scheme shall stand revoked, cancelled and be of no effect and become null and void, and in that event, no rights and liabilities shall accrue to, or, be incurred inter se between the Company and any other person and the Company shall bear and pay the costs, charges and expenses for and/or in connection with the Scheme

PART C - GENERAL TERMS AND CONDITIONS

8. Upon this Scheme becoming effective, the Balance Sheet of the Company, as on the Appointed Date, shall be reorganized in accordance with the terms of this Scheme.

9. Dividends

9.1 Nothing contained herein shall be construed as restricting the Company from being entitled to declare and pay dividends, whether interim or final, to its shareholders whether during the pendency of the Scheme or otherwise and the holders of the shares of the Company shall, save as expressly provided otherwise



in this Scheme, continue to enjoy their existing rights under the Articles of Association, including the right to receive dividends, if any.

- 9.2 It is clarified that the aforesaid provisions in Clause 9.1 in respect of declaration of dividend are enabling provisions only and shall not be deemed to confer any right on any member of the Company to demand or claim any dividends which, subject to the provisions of the said Act, shall be entirely at the discretion of the Board of Directors and subject to the approval, if required, of the Members.

10. Applications

The Company shall make necessary applications before the High Court for the sanction of this Scheme under Sections 391 to 394 of the Act and any other applicable provisions of law.

11. Modifications to the Scheme

- 11.1 The Company (acting through its Board of Directors) may, in its full and absolute discretion:

- (a) assent to any alteration(s) or modification(s) to this Scheme which the High Court and/or any other Governmental Authority may deem fit to approve or impose and to do all acts, deeds and things as may be necessary, desirable or expedient for the purposes of this Scheme;
- (b) give such directions as it may consider necessary to settle any question or difficulty arising under the Scheme or in regard to, and of the meaning or interpretation of the Scheme, or implementation thereof, or in any matter whatsoever connected therewith (including any question or difficulty arising as a result of inadequacy of information provided by a Member or in connection with any deceased or insolvent Member of the Company), or to review the position relating to the satisfaction of various conditions to the Scheme and if necessary, to waive any of those (to the extent permissible under law), or, that otherwise as may be considered to be in the best interest of the Company and its Members and do all acts, deeds and things as may be necessary, desirable or expedient for giving effect to the Scheme;
- (c) modify, vary or withdraw this Scheme prior to the Effective Date in any manner at any time;
- (d) any modification to the Scheme by the Company, after receipt of sanction by the High Court, shall be made only with the prior approval of the High Court.



12. **Severability**

12.1 The provisions contained in this Scheme are inextricably inter-linked with the other provisions and the Scheme constitutes an integral whole. The Scheme would be given effect to only if it is approved in its entirety unless specifically agreed otherwise by the Board of Directors of the Company.

12.2 If any part of this Scheme is found to be unworkable for any reason whatsoever, the same shall not, subject to the decision of the Company, affect the validity or implementation of the other parts and/or provisions of this Scheme.

13. **Tax related provisions**

Every Payout shall be subject to payment or deduction at source of applicable taxes as per applicable law.

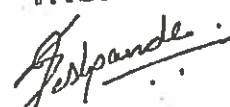
14. **Costs**

All costs, charges and expenses of the Company in relation to or in connection with the Scheme and of carrying out and implementing/ completing the terms and provisions of the Scheme and/ or incidental to the completion thereof in pursuance of the Scheme, shall be borne and paid by the Company.

15. **Binding Effect**

This Scheme when sanctioned by the High Court and upon effectiveness shall be binding on the Company, all its creditors, Members and all other persons, notwithstanding anything to the contrary in any other instrument, deed or writing.

TRUE COPY


Cyril Amarchand Mangaldas
Advocates & Solicitors

CERTIFIED TRUE COPY
HINDUSTAN UNILEVER LIMITED


DEV BAJPAI
COMPANY SECRETARY

Certified True Copy

Date of Application 22.06.2018

Number of Pages 11

Fee Paid Rs. 55

Applicant called for collection copy on 27.09.2018

Copy prepared on 27.09.2018

Copy Issued on 27.09.2018


Assistant Registrar

National Company Law Tribunal, Mumbai Bench



**BEFORE THE NATIONAL COMPANY LAW
TRIBUNAL, MUMBAI BENCH, MUMBAI
TRANSFER COMPANY SCHEME PETITION NO.
151 OF 2017
IN
COMPANY SCHEME PETITION NO. 659 OF 2016
CONNECTED WITH
COMPANY SUMMONS FOR DIRECTION NO.
346 OF 2016**

In the matter of Scheme of Arrangement
amongst Hindustan Unilever Limited and its
Members;

Hindustan Unilever Limited ... Petitioner Company

**CERTIFIED COPY OF THE ORDER DATED 21st
JUNE, 2018 ALONG WITH SANCTIONED
SCHEME**

Cyril Amarchand Mangaldas
Peninsula Chambers, Peninsula Corporate Park,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai - 400 013
Advocates for the Petitioner Company