

Kyma Capital Limited

Vedanta Limited (Bloomberg: VEDL IN (NSE/BSE), VEDL US (NYSE ADS))

Kyma concerns regarding transfer of value

11 November 2020

Over recent months, Vedanta Limited and its subsidiaries (“Vedanta”) have made loans amounting to \$956 million to Vedanta Resources Limited and its wholly owned subsidiaries (“Parent”). It is Kyma Capital’s view that this is a clear-cut case of siphoning off funds and value that belongs to Vedanta Limited, and all its stakeholders.

We have attached our correspondence with the Board, which details our concerns.

- First, this money is being loaned to a near-insolvent Parent. This has been affirmed by both Vedanta Limited auditors as well as Vedanta Resources auditors;
- Second, this is a related party transaction with a controlling shareholder which should, naturally, have a higher level of scrutiny. Instead, the Vedanta Board seems to have been asleep at the wheel;
- Third, given the timescales involved it seems apparent to Kyma that Vedanta was directly or indirectly funding its own delisting;
- Fourth, Indian law is clear on Independent Director duties and has punitive penalties. In Kyma’s view, these duties have very clearly been breached.
- Fifth, Cairn India Holdings Limited (CIHL) is a very important subsidiary of Vedanta, with its main asset being Cairn Energy Hydrocarbons Limited (CEHL). The auditor for both entities is an obscure accounting firm in Gurgaon, India with no statutory authorisation to audit UK companies.
- Sixth, the CIHL Board is staffed with professional service directors. On the most recent earnings call, the CFO ascribed *this* Board as signing off on the loan to Parent.
- Seventh, Vedanta Limited is guaranteeing the incurrence of debt at CIHL. This money is then promptly loaned to Parent. We question how this is compliant with the RBI’s Foreign Exchange Management Act.
- Finally, we are disappointed in our Independent Directors. We note the resignation of Ms Lalita Gupte following our correspondence with the Board (in itself, a red flag). However, the continued acquiescence of the remaining directors is puzzling, and at odds with their professional credentials built up over many years.

Given this fact pattern, we have requested the Board to immediately recall these loans from Parent, and commission a special audit by a “big four” accounting firm to allay investor concerns regarding accounting and governance. We have not had a substantive response to date.

As an immediate next step, we are in the process of filing complaints with SEBI for a) possible accounting manipulation, and b) corporate governance. We will also be raising our concerns with other regulatory and legal authorities over the coming weeks.



About Kyma Capital

Kyma Capital Limited ("Kyma") is a London-based investment manager and is authorized by the Financial Conduct Authority. Kyma manages Kyma Capital Opportunities Fund, which is an all-weather, event-driven fund that invests in both public and private securities.

For any enquiries, please contact

Renata Machado

Chief Operating Officer

rmachado@kymacapital.com

EXHIBIT 1

Kyma letter sent to Vedanta Board of Directors, dated 11 Nov 2020

Vedanta Limited
1st Floor, 'C' wing, Unit 103,
Corporate Avenue, Atul Projects,
Chakala, Andheri (East),
Mumbai-400 093
Maharashtra, India

11 November 2020

Attention: The Board of Directors

Dear Directors,

We refer to our letters dated 15 October and 30 October, in which we raised serious corporate governance concerns, as well as bafflement on the unexplained switch in auditor for an important subsidiary.

You have chosen not to respond to our concerns at all.

Further Loans Granted to Parent

Instead, you have signed off on further loans to Vedanta Resources. The total money loaned for the benefit of one shareholder now amounts to \$956 million. We are amazed at the siphoning of this very significant sum, especially as it amounts to approximately 40% of the current market value of Vedanta Limited equity held by minority investors.

The Company's Chief Financial Officer, Mr G R Arun Kumar, stated on the most recent earnings call that this disbursement "did *not* need approval from the Vedanta Limited Board", as it "had received independent board approval from Cairn India Holdings Limited (CIHL)".

This is of course a legal fiction. Your attempt to absolve yourself of responsibility for this very significant related party transaction, by pointing instead to some rubber-stampers, is wholly unfounded and entirely indefensible.

Governance Failure(s) at CIHL - Board

It is clear to us that the governance controls in place at CIHL have failed.

We have previously expressed concern at the "professional service directors" that constitute the board of CIHL. The two signatories on your most recent CIHL accounts are Gayle Swanson and Marc Harris, who are professional directors at Vistra, a corporate services provider. Their Vistra colleagues Paul Cooper and Julius Bozzino sit on the board at Cairn Energy Holdings Limited (CEHL), and serve as directors on several dozen boards each.

Governance Failure(s) at CIHL - Obscure Auditor

The other significant concern with the control structure at the Jersey company, CIHL, of course, is your Gurgaon-based auditor, VD & Co.

Until at least October 2019, EY Jersey was auditing this entity. Without any explanation or apparent rationale, the most recent audit was instead conducted by VD & Co. EY has continued to audit *most* of

your other subsidiaries, and *all* material offshore subsidiaries – except CIHL and CEHL. These are also the only two entities where we see a change in auditor this year. As a prudent investor, we might reasonably infer that this is due to EY’s reluctance to sign off on recent dubious transactions.

Resignation of Independent Board Member

On the same day as the quarterly earnings release, we note the resignation from the Board of Ms Lalita Gupte. Considering this is shortly after Kyma started raising some very serious concerns with the Board, we believe this is yet another red flag.

Next Steps

We would repeat that the only way this Board of Directors can try to absolve itself, is by:

First, recalling immediately the \$956 million loans outstanding to Vedanta Resources and its subsidiaries, and

Second, commissioning an independent special audit by a “big four” accounting firm.

Despite our repeated urging, you have not provided a substantive response to either our 15 October or our 30 October letters. As an immediate next step, we are in the process of filing an investor complaint with SEBI, asking the authorities to focus on a) possible accounting manipulation, and b) corporate governance. The irony of having to look to SEBI for recourse when we have a former Chairman of SEBI, Mr UK Sinha, as an Independent Director, is not lost on us (nor indeed, we expect, will be lost on the authorities).

We also expect to bring these concerns to the attention of other regulatory and legal authorities.

Yours sincerely,

Akshay Shah
Chief Investment Officer
Kyma Capital Limited
22-25 Portman Close
London W1H 6BS

Copy RNS release dated 11 November 2020

EXHIBIT 2

Kyma Presentation sent to Vedanta Board of Directors, dated 30 Oct 2020



30 October 2020

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Disclaimer



IMPORTANT NOTICE

These presentation slides, their contents, appendices and the accompanying verbal presentation (the "Presentation") have been prepared by Kyma Capital Limited, a private company incorporated in England with registered number 11237279 and registered office address at 22-25 Portman Close, London, W1H 6BS ("Kyma"). Kyma is authorised and regulated by the Financial Conduct Authority, FRN 805771.

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1. Loan Granted to Parent. Borrower is Twin Star Holdings Limited

Corporate Structure Chart



CIHL loaned \$293M to Twin Star



In the quarter ending 30 June 2020, Cairn India Holdings Limited (“CIHL”) loaned \$293 million to Twin Star Holdings (“Twin Star”)

23 Subsequent events

- Subsequently to year end, the Company received dividend of \$105.m from Cairn Energy Hydrocarbons Limited and has invested \$26.9 m in Cairn Energy Hydrocarbons Limited equity shares.
- Subsequently to year end, the Company has provided loans to THL Zinc, Fujairah Gold and Twin star holdings amounting to \$112 m, \$9.1 m and \$293 m respectively.
- Subsequently to year end, DGH granted vide letter dated Aug 14, 2020 permission to continue petroleum operation in RJ-ON-90/I block till 31st August 2020, which is now extended upto 30th Sep 2020

2. Indian Law is Clear on Independent Director Duties

As per the 2013 Companies Act:

the general duties of directors under the CA 2013 are as follows:

to act in good faith in order to promote the objects of the company for the benefit of its members as a whole;

to act in the best interest of the company, its employees, shareholders, community and for the protection of environment;

to exercise due and reasonable care, skill and diligence and independent judgment;

As an Independent Director, he has the same general legal responsibilities to the Company as any other Director including all fiduciary duties, responsibilities, statutory obligations and liabilities of directors prescribed in law including the Companies Act, 2013

To act honestly and in good faith in the best interests and objects of the Company, its employees, its shareholders, the community and for protection of environment;

To exercise due care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances and shall also exercise independent judgment;

3. The Lender for this Loan is CIHL, an Important Subsidiary of Vedanta.

CIHL is a very material subsidiary of Vedanta



In terms of assets and book equity, CIHL is about 1/3rd the size of Hindustan Zinc; clearly a very important asset owned by Vedanta Limited

Vedanta Limited Unconsolidated*	31 Mar 2020	% of Total Assets	% of Book Equity
(Rs. in Crore)			
Non-current assets	120,614		
Current assets	18,836		
TOTAL ASSETS	139,450		
of which:			
Hindustan Zinc Limited	44,398	31.8%	63.5%
Cairn India Holdings Limited (CIHL)	13,806	9.9%	19.8%

Note: Extract from Vedanta Limited Standalone balance sheet.

Source: Annual Report Vedanta Limited, year end Mar 2020

4. CIHL is a Jersey Company; its Main Asset is CEHL, a UK Company

CIHL / CEHL: Corporate Structure

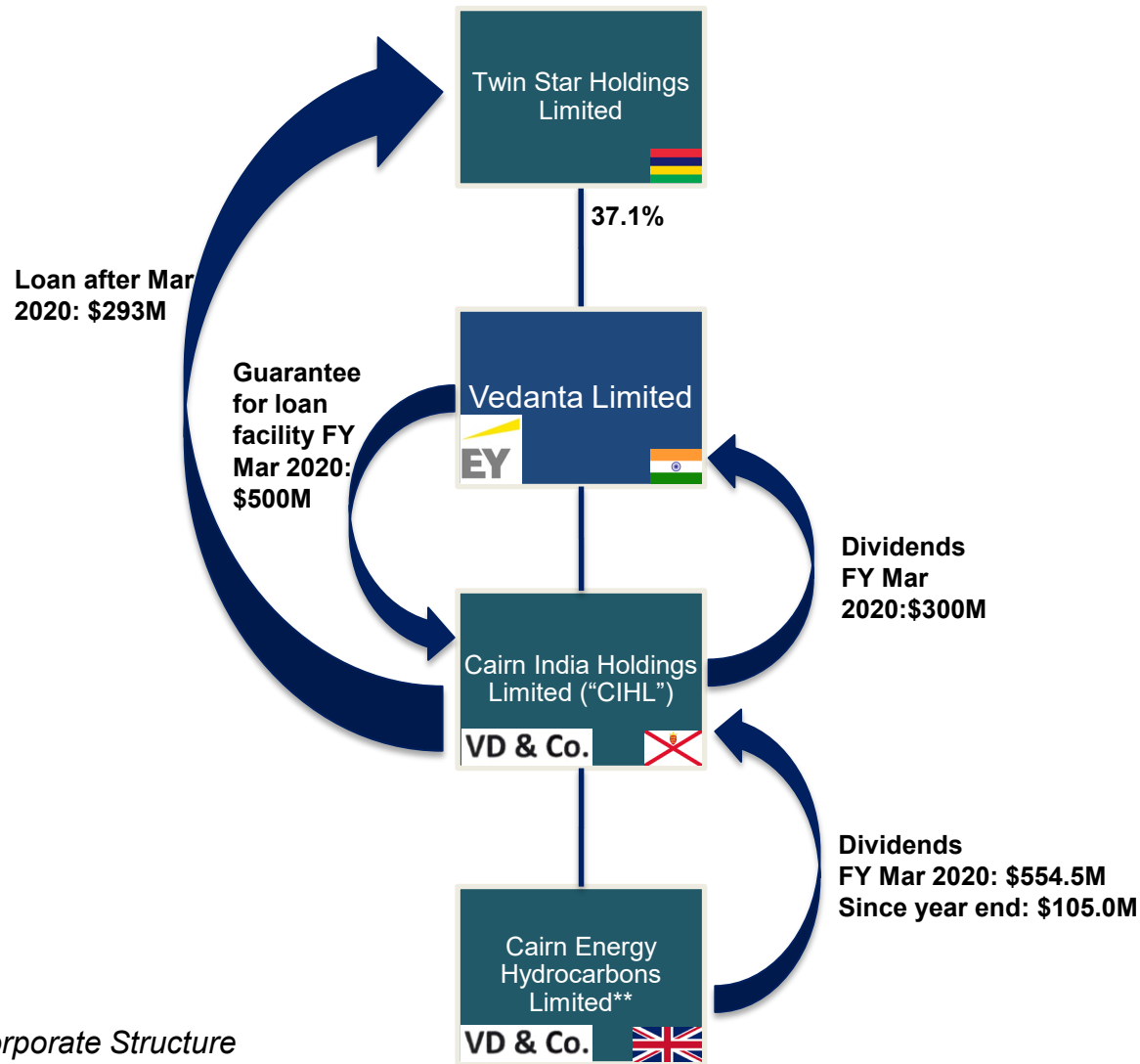


** Principal place of business is in India



5. CIHL has Some Puzzling Disclosures in its Accounts

Cash Flows Disclosed in Latest Annual Report



Note: Extract of the full Corporate Structure
Source: Company disclosures and Kyma research

** Principal place of business is in India

6. Control Structures at CIHL / CEHL – Directors

Control Structures: Directors at CEHL




3 of the four current Directors for Cairn Energy Hydrocarbons Limited (“CEHL”)

 **Companies House**


[Companies House does not verify the accuracy of the information filed](#)

Search for a company or officer

 **Companies House**

[Companies House does not verify the accuracy of the information filed](#)

Search for a company or officer

 **Companies House**

[Companies House does not verify the accuracy of the information filed](#)

Search for a company or officer

Paul John COOPER

Filter appointments

☒ Current appointments

Total number of appointments 23

Date of birth
July 1957

Julius Manuel BOZZINO

Filter appointments

☒ Current appointments

Total number of appointments 29

Date of birth
October 1970

**ACCOMPLISH
SECRETARIES LIMITED**

Filter appointments

☒ Current appointments

Total number of appointments 140

Paul Cooper and Julius Bozzino are professional directors from Vistra,
a corporate services provider

Control Structures: Directors at CIHL

2 of the three current Directors for Cairn India Holdings Limited (“CIHL”)



Gayle Swanson

Director and Head of Funds, Jersey

Gayle joined Vistra Jersey as Head of Funds in March 2019. She currently leads the fund accounting and administration businesses on the Island.

Gayle has over 19 years' experience in the funds industry, having worked for Link Asset Services, BNP Paribas SA, Ernst & Young and PwC. Gayle has acted as a director on both regulated and unregulated boards and has significant experience with various alternative asset classes including private equity, real estate and infrastructure. She has a proven track record of establishing and building key client relationships and has developed a number of relationships with key individuals in industry.



Marc Harris

Director and Head of Capital Markets, Jersey

Marc joined Vistra in July 2018, following Vistra's acquisition of the Deutsche Bank Corporate Services Division. He currently leads the Commercial Real Estate and Capital Markets business on the Island.

Prior to joining Vistra, Marc was at Deutsche Bank Jersey for 4 years where he was Head of Corporate Services and, prior to that, worked at an independent Trust Company Service Provider where he specialized in the delivery of director and company secretarial services to SPVs. Marc sits on the boards of a number of companies such as capital market issuance vehicles, aircraft leasing vehicles and asset holding vehicles for large institutional investors investing in numerous asset classes. He acts or has acted on the board of a number of funds in private equity and real estate sectors and uses his experience and knowledge to add value and provide good corporate governance on these SPVs.

Gayle Swanson and Marc Harris are professional directors from Vistra, a corporate services provider



Note: As disclosed in EY audited 2019 report. No disclosure in 2020 report

Source: <https://www.vistra.com/people/>

7. Control Structures at CIHL / CEHL – Auditor



Control Structures: Auditor Change at CIHL

Previously audited by EY, since at least 2016

CAIRN INDIA HOLDINGS LIMITED Directors' Report (continued) Auditors Ernst & Young LLP are appointed as auditors to the Company and have indicated their willingness to continue in office. By Order of the Board	  Director 4 th Floor, 22-24 New Street, St. Paul's Gate St. Helier Jersey JE1 4TR <div style="border: 2px dashed red; padding: 2px; display: inline-block;">7th October 2019</div>
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Source: Annual Reports Cairn India Holdings Limited from 2016 to 2019

Now Audited by VD & Co. Starting sometime after Oct 2019

VD & Co. <i>Chartered Accountants</i> INDEPENDENT AUDITOR'S REPORT To the Board of Directors of Cairn India Holdings Limited Report on the Special Purpose Audit of the International Financial Reporting Standards ('IFRS') Financial Statements	# 234, 2nd Floor, JMD Megapolis, Sector - 48, Sohna Road, Gurgaon - 122001, Haryana, India Tel: +91 124 420 3414 Web: www.vdandco.in	for VD & Co. Chartered Accountants Firm Registration No.: 023090N   CA. Vaibhaw Kumar Kedia Partner Membership No. 511519 UDIN: 20511519AAAAGY9515 Date: September 16, 2020 Place: Gurugram
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Source: Annual Report Cairn India Holdings Limited, year end Mar 2020

Control Structures: Auditor: VD & Co



VD & Co.
CHARTERED ACCOUNTANTS

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ABOUT US

VD & Co. was established by CA. Vaibhaw Kedia in May 2010 with the desire to fulfil the needs of the clients with their full satisfaction in terms of quality, time and cost. VD & Co. is a Chartered Accountant firm registered with the Institute of Chartered Accountants of India (ICAI) and having its principal places of operation in Gurgaon, New Delhi and Lucknow.

VD & Co. is a professionally managed firm which currently has team strength of 20 personnel including chartered accountants, corporate financial advisors and tax consultants. The firm represents a combination of specialized skills, which are geared to offer sound financial advice and personalized proactive services. Those associated with the firm have regular interaction with industry and other professionals which enables the firm to keep pace with contemporary developments and to meet the needs of its clients.

The firm also has professional association with various firms in major cities such as Kolkata, Pune, Nagpur, Hyderabad, Bangalore, Mumbai, Surat, Patna, Ranchi, etc. to provide services across India. The firm is committed to maintain integrity and quality in sustaining public trust and client confidence while providing services to the clients in a most competent, professional and cost-effective manner.

OUR TEAM

CA. Vaibhaw Kedia, the Promoter cum Managing Partner of the firm, completed Chartered Accountancy in the year 2006. He is a Commerce Graduate from Goenka College of Commerce, Kolkata in 2004. Post qualification he has worked with Direct Tax Division in Ernst & Young for a period of two years from 2008 to 2010. Thereafter, in May 2010 he started practicing as a Chartered Accountant in the name of VD & Co.

CA. Neha Kedia joined as a partner in June 2014. She completed her Chartered Accountancy in the year 2011. She has completed M.Com (Finance & Taxation) from IGNOU and is a Commerce Graduate from the University of Lucknow. She has a three years post qualification experience in Civil Construction industry in the field of Project Financing and Accounts.

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8. VD & Co: UK Statutory Auditor?

Audit exemption for private limited companies

You may not need to get an audit of your private limited company's annual accounts.

You'll need to get an audit if your articles of association say you must or your shareholders ask for one.

For financial years that begin on or after 1 January 2016

Your company may qualify for an audit exemption if it has at least 2 of the following:

- an annual turnover of no more than £10.2 million
- assets worth no more than £5.1 million
- 50 or fewer employees on average

Companies that must have an audit

! Some companies must have an audit even if they meet the rules for not having one.


Your company must have an audit if at any time in the financial year it's been:

- a public company (unless it's dormant)
- a subsidiary company (unless it [qualifies for an exception](#))
- an authorised insurance company or carrying out insurance market activity
- involved in banking or issuing e-money
- a Markets in Financial Instruments Directive (MiFID) investment firm or an Undertakings for Collective Investment in Transferable Securities (UCITS) management company
- a corporate body and its shares have been traded on a regulated market in a European state

17. Audit exemption for subsidiary companies

A subsidiary may claim exemption from audit if its parent is established under the law of an EEA state, in certain circumstances. To take up this exemption you will need to

VD & Co. not listed as a statutory auditor in UK



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You are here: [Home](#) >> [All Firms](#)

Search Firms By Search Text


[Clear Search](#)

All Firms - Results for 'VD & Co'

RSB	Firm Name	EEA Auditor
1		

Zero records returned.

Date of most recent update: 27 Oct 2020



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You are here: [Home](#) >> [All Individuals](#)

Search Individuals By Search Text

[Clear Search](#)

All Individuals - Results for 'Kedia'

Surname	Full Name	RSB	Firm	Statutory Auditor	Director	Owner	Management Board
1							

Zero records returned.

Welcome to the Register of Statutory Auditors.

Date of most recent update: 27 Oct 2020

Source: <http://www.auditregister.org.uk/>



This Register contains information on Statutory Auditors and Audit Firms in the UK.

A Statutory Auditor is a person approved to carry out the audit of annual accounts or consolidated accounts.
An Audit Firm is a firm that is approved to carry out Statutory Audits.

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9. Vedanta Limited Auditors Clearly Place Great Reliance on these Subsidiary Audits

S.R. Batliboi clearly state their reliance on the audit work conducted by subsidiary auditors



OTHER MATTER

(a) We did not audit the financial statements and other financial information, in respect of 14 subsidiaries, whose Ind AS financial statements include total assets of ₹ 17,206 crore as at March 31, 2020, and total revenues of ₹ 7,531 crore and net cash outflows of ₹ 427 crore for the year ended on that date. These Ind AS financial statement and other financial information have been audited by other auditors, which financial statements, other financial information and auditor's reports have been furnished to us by the management. The consolidated Ind AS financial statements also include the Group's share of net profit of ₹ Nil for the year ended March 31, 2020, as considered in the consolidated Ind AS financial statements, in respect of 1 associate whose financial statements, other financial information have been audited by other auditors and whose reports have been furnished to us by the Management. Our opinion on the consolidated Ind AS financial statements, in so far as it relates to the amounts and disclosures included in respect of these subsidiaries and associate, and our report in terms of sub-sections (3) of Section 143 of the Act, in so far as it relates to the aforesaid subsidiaries, and associate, is based solely on the report(s) of such other auditors.

Note: S.R. Batliboi & Co. LLP ("SRB"), Auditor of Vedanta Limited, is an affiliate of EY.

Source: Annual Report Vedanta Limited year end Mar 2020, Independent Auditor's Report (Standalone)

EY/SRB audited nearly every other material subsidiary



S.R. Batliboi & Co. LLP (“SRB”), Auditor of Vedanta Limited, is an affiliate of EY.

EY/SRB found the time to audit nearly every other material subsidiary.

Why not CIHL / CEHL?

- Out of all subsidiaries where we have records, EY / SRB audited 33 of these 42
- The ones not audited by EY / SRB are highlighted.
- The only material offshore subsidiaries are CIHL / CEHL
- The only subsidiaries where we saw an auditor change this year are CIHL / CEHL

<u>Legal name</u>	<u>Auditor</u>
Amica Guesthouse (Proprietary) Limited	eVolve Audit
Avanstrat	
Bharat Aluminium Company Limited	S R Batliboi & Co LLP
Black Mountain	
Bloom Fountain Limited	EY
Cairn Energy Gujarat Block 1 Limited	VD & Co.
Cairn Energy Hydrocarbons Limited	VD & Co.
Cairn Energy India Pty Limited	EY
Cairn India Holdings Limited	VD & Co.
Cairn Lanka (Private) Limited	EY
CIG Mauritius Holding Private Limited	EY
CIG Mauritius Private Limited	EY
Copper Mines of Tasmania Pty Ltd	EY
ElectroSteels Limited	Lodha & Co
Fujairah Gold FZC	EY
Goa Sea Port Private Limited	S R Batliboi & Co LLP
Hindustan Zinc Limited	S R Batliboi & Co LLP
Killoran Lisheen Finance Limited	EY
Lakomasko BV	Pathak HD & Assoc LLP
Lisheen Milling Limited	EY
Lisheen Mine Partnership	EY
MALCO Energy Limited	S R Batliboi & Co LLP
Maritime Ventures Private Limited	S R Batliboi & Co LLP
Monte Cello BV	Pathak HD & Assoc LLP
Namzinc (Proprietary) Limited	EY
Pradip Multi Cargo Berth Pvt Limited	S R Batliboi & Co LLP
SESA Mining Corporation Limited	S R Batliboi & Co LLP
SESA Resources Limited	S R Batliboi & Co LLP
Skorpion Mining Company (Proprietary) Limited	EY
Skorpion Zinc (Proprietary) Limited	EY
Sterlite Ports Limited	S R Batliboi & Co LLP
Sterlite USA Inc	Pathak HD & Assoc LLP
Talwandi Sabo Power Limited	S R Batliboi & Co LLP
Thalanga Copper Mines Pty Ltd	EY
THL Zinc Holding BV	Pathak HD & Assoc LLP
THL Zinc Limited	EY
THL Zinc Namibia Holdings (Proprietary) Limited	EY
THL Zinc Ventures Limited	EY
Vedanta Lisheen Holdings Limited	EY
Vedanta Lisheen Mining Limited	EY
Vizag General Cargo Berth Private Limited	S R Batliboi & Co LLP
Western Clusters Limited	PKF Liberia

Stewards of our Capital: Vedanta Limited Independent Directors

Stewards of our capital

Vedanta Limited Independent Directors



LALITA D GUPTÉ,
Non-Executive Independent
Director



UPENDRA KUMAR SINHA,
Non-Executive Independent
Director



MAHENDRA KUMAR SHARMA,
Non-Executive Independent
Director



K VENKATARAMANAN,
Non-Executive Independent Director



EXHIBIT 3

Kyma letter sent to Vedanta Board of Directors, dated 30 Oct 2020

Vedanta Limited
1st Floor, 'C' wing, Unit 103,
Corporate Avenue, Atul Projects,
Chakala, Andheri (East),
Mumbai-400 093
Maharashtra, India

30 October 2020

Attention: The Board of Directors, and in particular, Mrs Lalita Dileep Gupte, Mr Krishnamurti Venkataramanan, Mr Upendra Kumar Sinha, and Mr Mahendra Kumar Sharma

Dear Mrs Gupte, Mr Venkataramanan, Mr Sinha, and Mr Sharma,

I refer to my letter dated 15 October, which requested a response by 20 October. Other than the Company Secretary writing to inquire about our holdings, which we responded to promptly, we have had no substantive response.

In the meantime, Kyma has continued its diligence into Vedanta Limited and its group subsidiaries. Our findings are highly concerning and suggest a standard of governance that is wholly inconsistent with a company of this size and importance. We have summarised our sources and information in the attached presentation.

In summary,

1. We have learnt more about the loan that has been granted to Parent. The borrower for \$293 million is Twin Star Holdings, a direct holding company of Vedanta Limited. For the reasons stated in our 15 October letter, no reasonable person could argue this transaction with a related party is on "arms length" terms.
2. By its very nature, this is an apparent contravention of the 2013 Companies Act. In particular, Kyma believes this loan is not compliant with the duties of Independent Directors as outlined in our previous letter.
3. The lending entity for this dubious money transfer is Cairn India Holdings Limited ("CIHL"). CIHL is a highly material subsidiary for Vedanta Limited, comprising \$2 billion in assets. This is c. 10% of Vedanta Limited standalone (unconsolidated) assets. As a proportion of Vedanta Limited book equity, it is even more material, at 20%.
4. CIHL is a Jersey company, and its main asset is a wholly owned subsidiary, Cairn Energy Hydrocarbons Limited ("CEHL"). CEHL is a Scottish company, registered in the United Kingdom, and is engaged in the exploration development and production of oil and gas in Rajasthan.
5. We note that CIHL has some disturbing disclosures in its accounts.
 - a. First, CIHL has borrowed \$500 million bank debt, supported by a Vedanta Limited guarantee. As such, the money is borrowed by a Jersey company, using a corporate guarantee from a listed Indian company.
 - b. Second, that money has been used to make the loan to Twin Star, after year-end. We believe there may be actionable cross-border remittance concerns, due to the corporate guarantee

from Vedanta Limited. We have expressed our separate corporate governance and commercial concerns on this transfer previously.

- c. Third, the company discloses “bank deposits” of \$752 million. With such a large “bank deposit” balance, we fail to understand the commercial rationale of borrowing this secured bank facility.
6. We are extremely concerned that the governance controls in place at CIHL seem to have failed. In part, this seems attributable to the board structure, with professional service directors that have multiple board appointments.
7. Far *more* concerning is the appointment of an obscure accounting firm, to audit these very material subsidiaries. Until 2019, CIHL and CEHL were audited by EY in London. Starting 2020, these entities have switched to VD & Co. for “Special Purpose Audit”.
8. Our understanding is that CEHL, as a UK company, requires a statutory audit. You will no doubt be aware that VD & Co has no such authorisation to audit UK companies.
9. Vedanta Limited’s auditors place great reliance on the subsidiary level audits. We also note that EY continued to audit the vast majority of other subsidiaries.

These are the facts. A reasonable investor might speculate that in light of the dubious activities being undertaken at CIHL and CEHL, EY refused to sign off on these accounts.

We are still working with counsel on a) remittance issues, as we are concerned about potential circumvention of FEMA, and b) Companies Act compliance matters. We are also analysing further transactions at certain of the Company’s offshore subsidiaries.

We trust you will agree that we are raising very serious issues in this letter. We note you have not provided a substantive response to our 15 October letter. Please do so now. We urge you to respond to us, and to the capital markets, with a clear plan on how you intend to address these control and audit deficiencies. One obvious way to reassure investors that nothing untoward is occurring, is to commission an independent special audit by a “big four” accounting firm.

We would request your response by no later than 5pm London time, 4 November 2020. Failing a satisfactory response, we intend to issue our findings to the public capital markets and regulatory authorities.

Yours sincerely,

Akshay Shah
Chief Investment Officer
Kyma Capital Limited
22-25 Portman Close
London W1H 6BS

EXHIBIT 4

Kyma letter sent to Vedanta Board of Directors, dated 15 Oct 2020

Vedanta Limited
1st Floor, 'C' wing, Unit 103,
Corporate Avenue, Atul Projects,
Chakala, Andheri (East),
Mumbai-400 093
Maharashtra, India

15 October 2020

Attention: The Board of Directors, and in particular, Mrs Lalita Dileep Gupte, Mr Krishnamurti Venkataramanan, Mr Upendra Kumar Sinha, and Mr Mahendra Kumar Sharma

Dear Mrs Gupte, Mr Venkataramanan, Mr Sinha, and Mr Sharma,

Introduction

I write on behalf of Kyma Capital Limited, a UK based investment manager. Kyma Capital manages investments on behalf of a co-mingled fund and its underlying investors (together, "Kyma" or "we"). We own a beneficial interest in Vedanta Limited ("VL" or "the Company") common equity, both through the Indian NSE and BSE listings and United States NYSE ADS.

I am Chief Investment Officer at Kyma and have spent the last 20 years investing in undervalued and undermanaged companies, often as a result of highly leveraged capital structures. Before co-founding Kyma, I was senior managing director at the Blackstone group.

Summary of Kyma Concerns

Kyma notes with grave concern your quarterly earnings report earlier this month that states loans and guarantees worth \$1 billion will be provided "to its parent Vedanta Resources (VRL)", and that \$307 million had already been given before the launch of the offer.¹

You will no doubt be aware of the precarious financial position of Vedanta Resources Limited ("VRL" or "Parent"). For the reasons we outline below, Kyma believes this transaction, if allowed to proceed, would:

- result in a wholly improper transfer of value away from Vedanta Limited public shareholders;
- be a direct preference transaction in favour of VRL;
- be a conscious dereliction of duty by the Board, by approving a related party transaction on terms no prudent person could consider arms length; and
- demonstrate blatant lack of due care, diligence and skill by the Independent Directors, thereby exposing themselves to great potential liability.

¹ Vedanta Limited S.R. BATLIBOI & Co. LLP, June 2020, Review report

Role of Independent Directors

Vedanta Limited has you, the Independent Directors, as responsible stewards of our company and our capital. You all have credible experience and a reputation of accomplishment in your professional career.

For instance, Mr UK Sinha is regarded as a regulatory luminary who was Chairman of SEBI. Mrs Lalita Gupte has extensive credit experience as COO of ICICI, a large bank. Mr MK Sharma was a vice chairman at Hindustan Lever, a leading FMCG company. Mr Venkataraman has been CEO of L&T, a leading engineering company. Without exception, you four bring many decades of experience from leading, well regarded institutions.

The Transaction

Your independent auditor SR Batliboi states that:

“the Company’s wholly owned overseas subsidiaries have committed to provide loans and guarantee to its parent company (including its subsidiaries) aggregating to USD 1.05 billion, which have been partly utilized by June 30, 2020.”

They further state that

“as part of its cash management activities, during the quarter ended June 30, 2020, the Company’s overseas subsidiaries have extended loans of US\$ 307 million to Vedanta Resources Limited (VRL) and its subsidiaries repayable by June 2021.”

We note the Company requested, and received shareholder approval for, increase in limits u/s 186 of the Companies Act, 2013 in June 2016. This limit is Rs. 80,000 crores, which roughly equates to the USD 1.05 billion mentioned above.²

Precarious financial position of Parent

Your own independent auditor SR Batliboi is raising concerns about this loan.

“Owing to inherent uncertainties caused by the fact that the parent company has reported a material uncertainty relating to its going concern and a funding shortfall in a plausible downside case, in its most recent financial statements for the year ended March 31, 2020, we are unable to comment on whether adjustments... are required to be made ... to record any impairment in the carrying value.”

Parent’s statutory auditor Ernst & Young raises a material uncertainty relating to going concern in its FY2020 report. EY highlight a “number of material uncertainties that may cast significant doubt on [Vedanta Resources Limited]’s ability to continue as a going concern”.³ In particular, they note the c. \$2.2 billion repayments to be made by the Company in the 21-month period to 31 December 2021, and highlight the “funding shortfall that may be in the order of \$2.5 billion in the period to 31 December 2021”.

This is pretty damning evidence, from your own auditor, as well as Parent’s auditor.

² Vedanta Limited Annual Report 2016-17, page 172

³ Vedanta Resources Limited Integrated Report 2019-20, Independent Auditor’s report, page 110

Vedanta Resources Limited filed its annual report on 3 Oct 2020. The filing shows over \$5 billion in liabilities, including \$4.7 billion of external borrowings. These external borrowings constitute \$1.5 billion in term loans and a further \$3.2 billion of bond indebtedness. You will no doubt be aware that these external borrowings are currently trading at deeply distressed prices⁴ of 55-60% of par value, and at yields in excess of 30%⁵. In short, international capital markets are indicating little prospect of a full recovery of principal.

Risk-reward framework for this \$1 billion loan

Given the very significant risks of lending into this near-insolvent entity, how did the Board of Vedanta Limited price the potential returns?

Needless to say, the Company has multiple possible alternatives with this money, including leaving it on deposit with a bank, paying down its own debt, returning capital to shareholders, or further investing in the business. By consciously choosing to loan this money to a distressed entity, you must have evaluated the return profile of this loan. The capital markets are providing an assessment of what third party creditors charge for lending to VRL, on an arms length basis.

How have you priced this risk? Your stakeholders, particularly the public shareholders, request and require an explanation in this regard.

Board Duties

After taking advice from local legal counsel, we are very concerned about the conduct of the Board, and particularly, of the Independent Directors in signing off on this transaction. Your duties and responsibilities are laid out in law.

As per the 2013 Companies Act:

the general duties of directors under the CA 2013 are as follows:

to act in good faith in order to promote the objects of the company for the benefit of its members as a whole;

to act in the best interest of the company, its employees, shareholders, community and for the protection of environment;

*to exercise due and reasonable care, skill and diligence and independent judgment;*⁶

As an Independent Director, he has the same general legal responsibilities to the Company as any other Director including all fiduciary duties, responsibilities, statutory obligations and liabilities of directors prescribed in law including the Companies Act, 2013

To act honestly and in good faith in the best interests and objects of the Company, its employees, its shareholders, the community and for protection of environment;

To exercise due care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances and shall also exercise independent judgment;

⁴ See Exhibit 1

⁵ See Exhibit 2

⁶ Companies Act 2013, Chapter XI, Appointment and Qualifications of Creditors, 166. Duties to Directors

Further,

An Independent Director will be liable only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board process, and with his consent or connivance or where he had not acted diligently.⁷

Also,

Under the law of agency, duties of skill, care and diligence are imposed on directors. On the other hand, law of trusts impose fiduciary duties on directors. Accordingly, directors are the trustees of the company's money and property, and also act as agents in the transaction which they enter into on behalf of the company. Directors are liable as trustees for breach of trust, if they misapplied the funds or committed breach of byelaws of the company. A director is expected to perform his duties as a reasonably diligent person having the knowledge, skill and experience both of as person carrying out that director's function and of that person himself.

Finally,

a director can also be made liable for fraud. "Fraud" in relation to affairs of a company includes "any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss".⁸

Kyma assessment

In light of the facts and law stated above, we are dismayed that you, the Independent Directors, have allowed this transaction to be approved.

It seems the loan was signed off during the quarter ending June 30. This is also the same quarter when the Company received a delisting offer from Parent. By agreeing to lend money to Parent, it is apparent that the Company was, directly or indirectly, funding its own delisting. In any event, we have not seen any disclosure to shareholders on this matter, at the time of the proposed delisting.

If Vedanta Limited is allowing its own property and assets, whether held directly or through a subsidiary, to be used for lending into Parent, it is an immediate loss of c. 40-45% of amount disbursed. We would respectfully submit that the Board's approval of this transaction, despite the precarious financial position of Parent, is a clear breach of your duty of skill, care and diligence. By not acting diligently, Kyma believes that the Independent Directors are opening themselves to great potential liability.

⁷ Companies Act 2013, Chapter XI, Appointment and Qualifications of Creditors, 149. Company to have Board of Directors (12)

⁸ Companies Act 2013, Chapter XXIX, Miscellaneous, 447. Punishment for fraud

No doubt you will be aware there is a strict regime governing Related Party Transactions. We note the shareholder approval for increase in u/s 186 limits voted through by shareholders in June 2016.⁹ However, that shareholder authorisation doesn't relieve the Board of its duty of care and diligence. That authorisation was granted at a different time, and in no way obviates the ultimate duty of the Board to act in the best interest of the Company.

We are currently taking legal advice on whether this might also constitute fraud, by way of "abuse of position committed by any person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders"¹⁰.

It is our view that this is a clear-cut case of siphoning off funds and value that belongs to Vedanta Limited, and all its stakeholders. By providing this "support" to Parent ¹¹, this is a clear transaction at undervalue. We believe the Board, including the Independent Directors, is in connivance of this undervalue transaction, and if so, we will hold you to account to the fullest extent possible.

Third Parties

India Inc. rightly aspires to have world class capital markets. Behaviour and actions as we see here prompt a race to the bottom and devalue efforts by all right minded stakeholders. We trust that given the credentials of the Independent Directors, you will have dealt with all of our concerns in your due diligence before you signed off on this transaction. We would appreciate your full and frank explanation to this effect.

Absent a satisfactory explanation, we will be compelled to raise the matter with pertinent regulatory and legal authorities:

- In the first instance, we anticipate reaching out to the stock exchange regulator, SEBI.
- We also note that Vedanta Limited is a United States SEC filer. We are currently awaiting counsel advice on our options with the SEC.
- We are puzzled how the lending banks at Vedanta Limited have allowed this cash disbursement to a financially challenged, and near-insolvent, Parent. This is particularly remarkable given the recent focus on other "Bad Boy Billionaires". As custodians of public (taxpayer) money, we will encourage the relevant stakeholders to look into this act of largesse.
- We are still working with counsel on a) remittance issues, as we are concerned about potential circumvention of FEMA, and b) Companies Act compliance matters. Once we have our findings, we expect to write to you again.

Given the very significant economic value at stake here, we would request your immediate confirmation that no further fund disbursement will be approved, and existing loans to Parent will be recalled immediately. Any failure to do so is a clear attempt to siphon funds away from the Company and its stakeholders, for the direct and illegitimate benefit of one particular shareholder.

⁹ Vedanta Limited Annual report 2016-17, page 172

¹⁰ Companies Act 2013, Chapter XXIX, Miscellaneous, 447. Punishment for fraud

¹¹ The Economic Times, India, "Listed Vedanta Ltd to Give \$1-bn "Support" to Parent", Printed version 14 Oct 2020



I would request your confirmation by no later than close of business Tuesday 20 October 2020. In the absence of a satisfactory response, we will have no alternative but to escalate the matter with the relevant stakeholders.

Yours sincerely,

Akshay Shah
Chief Investment Officer
Kyma Capital Limited
22-25 Portman Close
London W1H 6BS

Exhibit 1: Price graph of the VEDLN 6.125 2024 bond



Source: Bloomberg. As of 14 Oct 2020

Exhibit 2: Yield graph of the VEDLN 6.375 2022 bond



Source: Bloomberg. As of 14 Oct 2020