BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER: Order/VV/AS/2022-23/16241 - 16249]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND UNDER SECTION 23-I OF THE SECURITIES CONTRACTS (REGULATIONS) ACT, 1956.

In respect of:

Noticee No.	Name of Noticee
1	**AmrapaliAadya Trading & Investment Pvt. Ltd. (PAN: AAECA3909P)**
2	**Aadya Commodities Pvt. Ltd. (PAN: AAHCA2094C)**
3	**Mr. Sanjeeva Kumar Sinha, Director, Noticee No. 1 and 2 (PAN: ALEPS6005L)**
4	**Mr. Sujeet Kumar Sona, Director, Noticee No. 1 and 2 (PAN: CWTPS3069L)**
5	**Mr. Pawan Mishra, Ex-Director, Noticee No. 1 (PAN: AMIPM6148D)**
6	**Mr. Narayan Jee Thakur, Ex-Director, Noticee No. 1 (PAN: ADIPT8774F)**
7	**Mr. Abnish Kumar Sudhanshu, Ex-Director, Noticee No. 1 (PAN: AXQPS1237C)**
8	**Ms. Amita Sinha, Ex-Director, Noticee No. 2 (PAN: AOIPS2038G)**
9	**Ms. Vandana Sinha, Ex-Director, Noticee No. 2 (PAN: ASUPS6193E)**

(*The aforesaid 9 noticees are hereinafter being referred to as Noticee No. 1 to 9, respectively or collectively referred to as '**the Noticees**'*)

In the matter of AmrapaliAadya Trading & Investment Pvt. Ltd. and Aadya Commodities Pvt. Ltd.

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") had received a reference from National Stock Exchange (hereinafter referred to as "**NSE"**) on August 10, 2017, wherein, NSE had forwarded the preliminary findings of inspection of one of the stock broker namely AmrapaliAadya Trading & Investments Pvt. Ltd. & Ors (hereinafter referred to as **'AATIPL'** or **'Noticee No. 1'**), for the period from April 01, 2016 to March 31, 2017. In

view of the serious observations made by NSE and considering the *prima-facie* serious violations of various provisions of SEBI Act, 1992, Regulations and Rules framed there under and SEBI Circulars, SEBI passed an *ex-parte* ad-interim order on August 22, 2017 (hereinafter referred to as the '**interim order'**) and restrained AATIPL, Aadya Commodities Pvt. Ltd (hereinafter referred to as **'ACPL'** or **'Noticee No. 2'**) and their directors (present and past) namely; Mr. Sanjeeva Kumar Sinha (**'Noticee No. 3'**), Mr. Sujeet Kumar Sona (**'Noticee No. 4'**), Mr. Pawan Mishra (**'Noticee No. 5'**), Mr. Narayan Jee Thakur (**'Noticee No. 6'**), Mr. Abnish Kumar Sudhanshu (**'Noticee No. 7'**), Ms. Amita Sinha (**'Noticee No. 8'**) and Ms. Vandana Sinha (**'Noticee No. 9'**), hereinafter collectively referred to as **"Noticees"**, from accessing the securities market and further prohibiting them from buying selling or dealing in securities, directly or indirectly, in any manner whatsoever, till further directions. The Noticees were also directed to cease and desist from undertaking any activity in the securities market, directly or indirectly, in any manner whatsoever till further directions. Further, SEBI vide order dated October 31, 2018 (hereinafter referred to as '**confirmatory order'**) confirmed the directions issued vide aforesaid ex-parte order dated August 22, 2017 against the Noticees. As directed in the said interim order, SEBI conducted an investigation in the matter for the investigation period April 01, 2011 to March 31, 2017(hereinafter referred to as the '**Investigation period**'). However, wherever deemed necessary, reference has also been made beyond the Investigation period.

2. On completion of investigation, it was observed that the Noticees No. 1 and 2 have allegedly been found indulged in following:

   a. Non-submission of information sought through summons.
   b. Siphoning of clients' funds/ securities.
   c. Non segregation & Mis-utilisation of client's securities and funds.
   d. Mis-used the client's securities by pledging/transferring the same.
   e. Routing/ Diversion of Clients' funds by AATIPL and ACPL to other entities.
   f. Running fixed return scheme for some of its clients.
   g. Selling of client's securities from the employee's account.
   h. Moving funds and securities to its sister concern and transferring funds from business bank account of the Noticee No. 1 to its related/ group entities.
   i. Non-disclosure of demat accounts to NSE.
   j. Failed to carry out running account settlement.

k. Non-redressal of investor grievances.

l. Falsification of books of accounts.

3. In view of same, it was alleged that the Noticees No. 1 and 2 have violated various provisions of the SEBI Act, Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as "**SCR Rules**"), SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"), SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as "**Stock Brokers Regulations**") and circulars issued by SEBI from time to time. The respective directors i.e. Noticees No. 3 - 9 are made responsible for the act of the Noticees No. 1 and 2, as the entity cannot function on its own and the Board of Directors being responsible for the conduct of the own/Business of a company and thus, are liable for any non-compliance of law and such liability shall be upon the individual directors also. In view of the above observations, it has been alleged that the Noticees No. 1 - 9 have violated the following provisions of the SEBI Act, SCR Rules, Stock Brokers Regulations, PFUTP Regulations and SEBI Circulars:

Table: 1

<table>
<tr><th>Noticee No.</th><th>Name of the Entities (PAN)</th><th>Violations Observed</th><th>Adjudication Proceedings</th></tr>
<tr><td>1.</td><td>AmrapaliAadya Trading & Investment Pvt. Ltd. (AAECA3909P)</td><td rowspan="2"><u>Noticees No. 1 and 2</u>
i. Circular no. SMD/SED/CIR/93/23321 dated 18 Nov, 1993 read with SEBI/MRD/SE/Cir-33/2003/27/08 dated August 27, 2003.
ii. Clauses 15 and 33 of Rights and Obligations document for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular no. CIR/MIRSD/ 16/2011 dated August 22, 2011.
iii. Clauses A (1),(2),(3),(4) and (5) of the Code of Conduct prescribed for the Stock brokers under Regulation 9 of the Stock Brokers Regulations, 1992.
iv. Sections 12(1), (1A), 12A, 12A (a), (b) & (c) of the SEBI Act.
v. Regulations 3(a), (b), (c), (d), 4(1) and (2)(p) of the PFUTP Regulations, 2003.
vi. Clause 12 of SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009.
vii. SEBI Circular SEBI/HO/MIRSD/ MIRSD2/CIR/P/2016/95 dated September 26, 2016.
viii. Circular no. CIR/MRD/ICC/ 30/2013 dated September 26, 2013
ix. Regulations 9(b), (e) and (f) of the Stock Brokers Regulations, 1992.
x. Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957.
xi. Regulation 26 (ii), (iii), (iv), (vi), (xi), (xiii), (xv), (xvi) and (xx) of Stock Broker Regulations, 1992.</td><td rowspan="2"><u>Noticee No. 1 and 2</u>

Under Sections 15A(a), 15C, 15HA and 15HB of the SEBI Act, 1992 and under Sections 23D and 23H of Securities Contracts (Regulations) Act, 1956 (hereinafter referred as 'SCRA').</td></tr>
<tr><td>2.</td><td>Aadya Commodities Pvt. Ltd. (PAN: AAHCA2094C)</td></tr>
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3.	Mr. Sanjeeva Kumar Sinha, Director , AATIPL (ALEPS6005L)	**<u>Noticees No. 3 – 9</u>** i. Circular no. SMD/SED/CIR/93/23321 dated 18 Nov, 1993 read with SEBI/MRD/SE/Cir-33/2003/27/08 dated Aug 27, 2003. ii. Clauses 15 and 33 of Rights and Obligations document for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular no. CIR/MIRSD/ 16/2011 dated August 22, 2011. iii. Clauses A (1),(2),(3),(4) and (5) of the Code of Conduct prescribed for the Stock brokers under Regulation 9 of the Stock Brokers Regulations, 1992. iv. Sections 12(1), (1A), 12A, 12A (a), (b) & (c) of the SEBI Act. v. Regulations 3(a), (b), (c), (d), 4(1) and (2)(p) of the PFUTP Regulations, 2003. vi. SEBI Circular SEBI/HO/MIRSD/ MIRSD2/CIR/P/2016/95 dated September 26, 2016. vii. Regulations 9(b), (e) and (f) of the Stock Brokers Regulations, 1992. viii. Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957.	**<u>Noticees No. 3 – 9</u>** Adjudication Proceedings under Sections 15HA and 15HB of the SEBI Act, 1992 and under Section 23H of SCRA.
4.	Mr. Sujeet Kumar Sona, Director , AATIPL (CWTPS3069L)		
5.	Mr. Pawan Mishra, Director, AATIPL (AMIPM6148D)		
6.	Mr. Narayan Jee Thakur, Director , AATIPL (ADIPT8774F)		
7.	Mr. Abnish Kumar Sudhanshu, Director , AATIPL (AXQPS1237C)		
8.	Ms. Amita Sinha, Director, ACPL (PAN: AOIPS2038G)		
9.	Ms. Vandana Sinha, Director, ACPL (PAN: ASUPS6193E)		

4. In view of the above, SEBI has *prima facie* felt satisfied that there are sufficient grounds to inquire and adjudicate upon the aforesaid alleged violations of the aforesaid provisions of the SEBI Act, SCR Rules, Stock Brokers Regulations, PFUTP Regulations and SEBI Circulars dated November 18, 1993 read with August 27, 2003, December 03, 2009, August 22, 2011, September 26, 2013 and September 26, 2016 by the Noticees No. 1-9, respectively. Accordingly, Mr. Amit Pradhan ("**erstwhile AO**") has been appointed as Adjudicating Officer in the matter by a *communication-order* dated March 12, 2020 and has been advised to inquire and adjudge under Rule 5 of the SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (hereinafter referred as '**Adjudication Rules**') and under Rule 5 of Securities Contracts (Regulations) (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (hereinafter referred as '**SCR Adjudication Rules**') under the adjudication provisions as mentioned Noticee-wise in the last column of the Table No. 1. Thereafter, pursuant to transfer of Shri Amit Pradhan, undersigned has been appointed as the Adjudicating Officer vide communication order dated June 21, 2021. It has been advised that except for the change of the Adjudicating Officer, the other terms and condition of the original orders (whereby the aforesaid Adjudicating Officers was appointed) '*shall remain unchanged and shall be in full force and effect*'. It has also been advised that '*I should proceed in accordance with the terms of reference made in the original orders*'.

5. Accordingly, a notice to show cause no. EAD-2/AP/AKS/11732/1-9/2020 dated July 15, 2020 (hereinafter referred to as '**SCN**') was issued to the Noticees calling upon them to show cause as to why an inquiry should not be held against them in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act and Rule 4(1) of the SCR Adjudication Rules read with section 23I of the SCRA, with regard to violations of aforesaid provisions as mentioned Noticee-wise in in the last column of the Table No. 21. The SCN was sent to the Noticees through speed post acknowledgement due ("**SPAD**") at their last known address. SCN w.r.t. Noticees No. 3, 4, 5, 8 and 9 was served upon *via* SPAD, however, status w.r.t. other 4 Noticees i.e. Noticees No. 1, 2, 6 and 7 could not be ascertained. Due to Covid-19 pandemic, postal services across the nation remain suspended for more than two months and thereafter, restricted services has been resumed. As observed from the website of Indian Post, status of delivery of SCN to the 9 Noticees is as follows:

Table: 2

Name	Status
AmrapaliAadya Trading & Investment Pvt. Ltd.	Party Shifted.
Aadya Commodities Pvt. Ltd.	Party Shifted.
Mr. Sanjeeva Kumar Sinha	Delivered on 01.08.2020.
Mr. Sujeet Kumar Sona	Delivered.
Mr. Pawan Mishra	Delivered on 01.08.2020.
Mr. Narayan Jee Thakur	No Such Person.
Mr. Abnish Kumar Sudhanshu	Incomplete Address.
Ms. Amita Sinha	Delivered on 01.08.2020.
Ms. Vandana Sinha	Delivered on 01.08.2020.

6. Meanwhile, it has been learnt that two of the Noticees i.e. Noticees No. 3 and 6 has been lodged in Tihar Jail 1 and 8, respectively. Further, e-mails of Noticees No. 4 and 7 and e-mails of legal representatives of Noticees No. 8 and 9 were received from other department of SEBI, which was dealing with the parallel 11B proceedings against same set of entities. Accordingly, vide e-mail dated January 08, 2021, SCN was forwarded to these Noticees and they were advised to file their reply to the SCN by January 15, 2021. Further, SCN was served upon Noticees No. 1 and 2 *via* paper publication on January 18, 2021 through newspapers Times of India and Dainik Jagran in Delhi edition. SCN was forwarded to Noticees No. 3 and 6 *via* Hand Delivery mode at Tihar Jail and was duly served upon Noticee No. 3 through Jail

Superintendent, Tihar Jail 1. However, it was learned that Noticee No. 4 has been released on bail and accordingly, SCN could not be served upon him in Tihar Jail. Later on through parallel 11B proceedings, it has been learnt that Noticees No. 6 was responding and communicating *via* e-mail id njthakur6@gmail.com. Accordingly, SCN was forwarded to him vide e-mail dated June 08, 2021, however, no response was received from him within the stipulated timelines of 14 days. Considering the same, the SCN was served upon Noticee No. 6 *via* paper publication on June 24, 2021 through newspapers Times of India and Navbharat Times in Delhi edition. In view of the above, I note that the SCN was duly served upon all the Noticees.

7. Noticees No. 4, 5 and 7 submitted their respective replies to the SCN vide letter dated January 15, 2021, August 18, 2020 and e-mail dated January 27, 2021, respectively. Noticee No. 6 vide his e-mail dated June 22, 2021 provided his new communication addresses and stated that it has not received the SCN and accordingly, requested for copy of the SCN and its annexures and a months' time for filing reply to the SCN. Vide letter dated July 14, 2021, SCN along with annexures was again forwarded to Noticee No. 6, wherein, he was advised to file reply to the SCN within 14 days' time. The said SCN was again served upon Noticee No. 6 via SPAD on July 20, 2021, however, he failed to submit reply to the SCN within due time. Therefore, Noticees No. 1, 2, 3, 6, 8 and 9 have not submitted reply to the SCN, post service of SCN upon them.

8. After considering the replies of Noticees No. 4, 5 and 7 and material available on record, an opportunity of hearing was granted to the Noticees in terms of Rule 4(3) of the SEBI Adjudication Rules. Hearing Notice to Noticees No. 1 and 2 was served *via* paper publication on August 18, 2018, wherein, the Noticees were granted hearing on September 07, 2021. Hearing Notice to Noticee No. 3 was duly served upon through Jail Superintendent, Tihar Jail 1 on August 23, 2021, wherein, he was granted hearing on September 07, 2021. Hearing Noticees to Noticees No. 4 – 7 was served *via* e-mail dated August 09, 2021, wherein, they were granted hearing on September 01, 2021, which was later on adjourned for September 06, 2021. Hearing Noticees dated August 10, 2021 to Noticees No. 8 and 9 were served *via* SPAD, wherein, they were granted hearing on September 07, 2021. Accordingly, hearing notice was duly served upon all the Noticees in this proceedings. A brief detail of hearing availed by the Noticees is provided in the following table:

Table: 3

Name of Noticee	Hearing Details	Remark/ Submissions
AmrapaliAadya Trading & Investment Pvt. Ltd.	07.09.2021	Hearing Not Availed. No Reply on Record.
Aadya Commodities Pvt. Ltd.	07.09.2021	Hearing Not Availed. No Reply on Record.
Mr. Sanjeeva Kumar Sinha	07.09.2021	Hearing Not Availed. No Reply on Record.
Mr. Sujeet Kumar Sona	06.09.2021	Made Submissions on basis of reply dated 15.01.2021. Hearing Concluded.
Mr. Pawan Mishra	06.09.2021	Waive off the hearing and further proceedings in light of Hon'ble Whole Time Members ("**WTM**") orders, dated 6th August 2021 and subsequently on 10th August 2021 in the matter of Amrapali Aadya Trading and Investment Pvt. Ltd., Aadya Commodities Pvt. Ltd. and Others.
Mr. Narayan Jee Thakur	06.09.2021	Requested to take his submissions made before Ld. WTM in parallel 11B proceedings on record and sought additional time for filing additional written submissions. Filed additional written submissions vide letter dated 11.09.2021. Hearing Concluded.
Mr. Abnish Kumar Sudhanshu	06.09.2021	Make his submissions on the basis of his written submissions dated 22.07.2020 made before Ld. WTM in parallel 11B proceedings. Hearing Concluded.
Ms. Amita Sinha	06.09.2021/ 14.09.2021/ 22.12.2021	Mr. Naveen Kumar, Advocate (AR) requested for additional time to file reply to the SCN during hearing and also made reference to the order and corrigendum to the order passed by the Ld. WTM in the parallel 11B proceedings. On 14.09.2021, AR requested for annexures to the SCN and advanced his arguments on the basis of reply dated 13.09.2021. He further stated that the directions in interim order in parallel 11B proceedings were vacated in final order of Ld. WTM. Filed additional written submissions vide e-mail dated 04.10.2021. On 22.12.2021, AR reiterated his earlier submissions and advanced his arguments on the basis of reply dated 13.09.2021. Hearing Concluded.
Ms. Vandana Sinha	06.09.2021/ 14.09.2021/ 21.12.2021	On 06.09.2021 Mr. Prabhat Kumar Rai, Advocate ("AR"), who has been communicating on behalf of the Noticee failed to appear for personal hearing and he has not produce any authority letter or vakalatnama regarding his

		appointment / appearance. On 14.09.2021, AR requested for annexures to the SCN. AR was informed that the relied upon documents has already been provided along with SCN and was duly delivered on Noticee's address available on record. However, same was provided to the Noticee once again. Reply filed on 11.10.2021. On 22.12.2021, AR advanced his arguments on the basis of reply dated 11.10.2021. AR requested to provide Annexure 6 to the SCN. Annexure 6 was duly provided to the Noticee and she was allowed to file additional written submissions. Hearing Concluded.

9. In view of above, I note that Noticees No. 4 – 9 have filed their respective written submissions or relied upon the submissions made before the Ld. WTM in the parallel 11B proceedings in the same subject matter. Noticees No. 1 – 3 have failed to file any reply to the SCN or to avail the opportunity of personal hearings extended to them. I further note that, during proceedings, Mr. Prabhat Kumar Rai, Advocate vide e-mail dated September 04, 2021, stated that he has been appointed as representative of Ms. Vandana Sinha and he will file Vakalatnama in coming week. He further stated that the main defendant Mr. Sanjeev Kumar Sinha, Noticee No. 3 is in jail for more than 4 years and he do not have any documents to submit reply and accordingly, sought 4 weeks' time to file reply. On the same day, it was informed to Mr. Rai that, a day before he himself has sought web link for virtual hearing and when link was shared with him, he is seeking adjournment for hearing, therefore, he was advised to appear for scheduled hearing on September 06, 2021. During hearing on September 06, 2021, Mr. Rai stated that he is appearing on behalf of Noticees No. 3 and 9, however, he has not produced any authority letter or Vakalatnama regarding his appointment /appearance. Therefore, he was advised to file Vakalatnama by September 10, 2021 and to appear for hearing on September 14, 2021. Thereafter, vide e-mail dated September 08, 2021, Mr. Rai forwarded scanned copy of Vakalatnama dated September 06, 2021 w.r.t. appearance on behalf of Ms. Vanadana Sinha, Noticee No. 9 only. Considering the same, I note that Mr. Prabhat Kumar Rai, Advocate had only represented Noticee No. 9 before me during the instant proceedings and Mr. Sanjeev Kumar Sinha, Noticee No. 3 failed to avail the opportunity of hearing granted to him. Considering the above, I note that sufficient opportunities has been granted to aforementioned

Noticees to file reply to the SCN and to represent case before me during the instant proceedings and only Noticees No. 4 - 9 has availed the same.

10. In view of above, in my view sufficient opportunity of filing reply to the SCN and making representation during these proceedings has been extended to the Noticees No. 1 - 3, however they failed to avail the same. In these facts and circumstances, I am of the view that the matter can be proceeded *ex-parte* on the basis of material available on record in terms of Rule 4(7) of the Adjudication Rules which reads as under: -

    *"**4(7)** If any person fails, neglects or refuses to appear as required by sub-rule (3) before the Board or the adjudicating officer, the Board or the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so."*

11. In the fact and circumstances of the case, I am of the view that the Noticees No. 1 - 3 have defied the regulatory provisions and I, therefore, deem it fit to draw an adverse inference against the aforesaid Noticees. Further, in absence of any response from the aforesaid Noticees, it is presumed that they have admitted the charge of violations of provisions as alleged in the case. In this regard, it is pertinent to note that the Hon'ble SAT in the matter of *Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006)* has, *inter-alia*, observed that, "*........... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".* It is also pertinent to note that the Hon'ble SAT in the matter of *Sanjay Kumar Tayal & Others vs SEBI (Appeal No. 68 of 2013 decided on February 11, 2014)*, has also, *inter alia*, observed that: *".......... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices...".* Therefore, it can reasonably be presumed that the allegations/charges have been admitted by the Noticees No. 1 to 3 in this case. The material on record do not indicate anything to *ex facie* hold otherwise.

12. The submissions made by the Noticees No. 4 – 9, vide their respective replies to the SCN during the instant proceedings are as follows:

    I. **<u>Common Contentions of the Noticees</u>**

    a. The Section 149(12)(ii) of the Companies Act 2013 provides that liability of a director arises only with respect to such acts of omission or commission by a Company which had occurred with his knowledge and with his consent or connivance. Hence, obligation is on the SEBI to verify relevant information and records before initiating proceeding against him.

b. Under the doctrine of vicarious liability, one person is held responsible for the wrong doing of the other. Such liability arises only when both persons are somehow connected to each other like employee-employer relationship or principal-agent relationship. In case of corporates, the applicability of the said doctrine is to be determined on the basis of provisions of statute dealt with. In this connection, they refer and relied upon the judgement in the matter of *Maksud Saiyed vs. State of Gujarat & Ors*, where the Hon'ble Court held that the Penal Code does not contain any provision of vicarious liability on the part of the Managing Director/ Director of the Company where the accused is a Company. They also placed reliance upon the judgement of *Sunil Bharti Mittal vs. CBI* and *Shiv Kumar Jatia vs. State of NCT of Delhi.*

c. It is stressed that in the absence of any statutory provision incorporating vicarious liability, an individual cannot be made accused, unless there is a sufficient evidence of his active role coupled with intent. Further such intent must have direct nexus with the accused. Therefore, merely holding position of director in the Company cannot be construed to his active role with intent in alleged violations.

d. The Noticees have never been the beneficiary of any unlawful gain out of the various contraventions, if any, committed by AATIPL and its top management in dealing with investors' funds and securities.

e. acts of receiving and transferring/ withdrawing the funds to and from the bank accounts of AATIPL could have been done only by that person who was authorized to operate the bank accounts and demat accounts of the AATIPL. The Noticee was neither authorized to operate bank accounts, nor the demat accounts of the AATIPL.

f. Standard of proof required in a criminal matter is much higher than the standard of proof required in a civil proceeding. Hence, where no evidence of the involvement of noticees director in management or decision-making of the concerned companies was found, no such involvement can be proved beyond all reasonable doubt in a criminal proceeding. She placed reliance upon the judgement of Hon'ble Supreme Court in the matters of *Radheshyam Kejriwal v. State of West Bengal*, (2011) 3 SCC 581 and *P.S. Rajya v. State of Bihar*, (1996) 9SCC1. Further, for a crime to be established, both criminal intent, i.e. *mens rea,* and criminal action, i.e. *actus reus*, need to be established against a person. In the present case, there is nothing on record that has been relied upon by SEBI which remotely indicates either a guilty act or a guilty mind.

g. It is submitted that the management and working of ACPL were effectively carried out by the management of AATIPL. To this effect, the attention is drawn to the fact that the two entities, namely ACPL and AATIPL, have a common sales team, accounts team, operate from the same office premises, and use the same systems. All operational purposes are mixed and all the resources answer to the management and promoters of AATIPL. She is not involved in the affairs of ACPL to the extent which would render her personally liable for the alleged default of ACPL.

II. **Mr. Sujeet Kumar Sona (Noticee No. 4)**

a. As per company records, he was associated with AATIPL from June 2011 to September 2017, as an admin head and was reporting to Mr. Sanjeeva Sinha, Managing Director (Noticee No. 3).

b. He had not attended any Annual General Meetings ("**AGM**") and he had not signed any of the company documents. Further, he is not a shareholder of the Company. After default in the Company, Mr. Sanjeeva Sinha appointed him as Additional Director in the Company.

c. He has no involvement in any fraud or scam as alleged and obligations casted upon him are false. There was no connection of him in dealing with any clients and their businesses.

III. **Mr. Pawan Mishra (Noticee No. 5)**

a. The entire SCN, specially w.r.t. him, seems as a passing general observation *without any substantial or specific evidence of any sort of wrongdoing or monetary gain in lieu of directorship*, which also was a forced and stopgap arrangement, where he was asked either to accept the directorship or resign from job. He was appointed as Additional Director in the Company, however, he had never participated in any meeting related to alleged misdeeds and non-compliances. He realized foul play in the Company and therefore, he started protesting from month of March- April, 2017and for that his salary of those months were delayed.

Later on, when his protest unheard, he had tendered his resignation on June 01, 2017. He also made public to take note of his dissociation from the Company in any form, by *giving public notice in two widely circulated dailies in Hindi and English in the newspaper named JANSATTA and ECONOMIC TIMES*.

b. He was forced for directorship after it was clear that previous incumbent to the directorship was held by Mr. Abnish Kumar Sudhanshu (**21.12.2013 to 24.01.2017**), whereas, he was forcibly inducted on January 23, 2017. He was not having any shares in AATIPL.

c. The Hon'ble Securities Appellate Tribunal ("**SAT**"), in two very recent cases (*Sayanti Sen v. SEBI and Agritech Hatcheries & Food Ltd. V. Valuable Steels India Pvt. Ltd.*), has clearly laid down that it is not the designation but the function or role played by a director that is instrumental in affixing liability on such person. He has placed reliance upon the judgements of Hon'ble Supreme Courts, Hon'ble High Courts, Hon'ble SAT and other Hon'ble courts in the matters of *Sunil Bharti Mittal V. Central Bureau of Investigation & Ors, Smt. G. Vijaylakshmi & Ors. v. SEBI, (2000) 100 Comp Cases 726 (AP), Municipal Corporation of Delhi V. Ram Kishan Rohtagi and Ors.*, *Manoj Agarwal V. SEBI, Yogesh G. Gemawat V. SEBI and Dr. Uppal Devinder Kumar V. SEBI.*

d. The alleged violations occurred in between April 01, 2011 to March 31, 2017 and he was director from January 23, 2017 to June 15, 2017. He is not responsible for the contravening acts before/ after his appointment as director. Post his resignation, he has no access to documents sought from him. The conclusions arrived at are based on premises and conjectures without having any evidentiary values.

e. No specific allegation/ averments was made against him in the SCN. It is reiterated that no connivance, consent was established by the investigating authorities and Ld. WTM in his final order dated October 31, 2018 and it completely ignored and disregarded his reply to fill in the lacuna in the Investigation. The fact-finding exercise by the Investigating Authority and conclusion arrived by the WTM is fundamentally flawed, suffers from invidious discrimination, unfair and a punitive undertaking.

f. Siphoning of client's funds and securities, non-segregation and misutilisation of funds and securities, pledging of securities, interest payment to third parties and related parties, falsification of accounts, running account settlement, these alleged activities were management's responsibility and all these misdeeds were happening prior to his appointment as additional director. He did not have any authority on banking and demat transaction, access to the accounts of the Company or have any involvement in day to day affairs of the Company. He was not part of any board meetings, wherein such issues were discussed.

g. The mitigating factors, such as want of power, knowledge about day to day affairs of the company should be considered. The imposition of liability requires some wrongdoing on part of the directors, through means such as consent or connivance. A person holding any office of profit or designation in a company may be liable if he satisfies the main requirement of being in charge of and responsible for the conduct of business of a company at the relevant time. *Liability depends on the role one plays in the affairs of a company and not on designation or status*. [Emphasis added], in *SEBI v Gaurav Varshney* (2016) 14 SCC 430.

h. It is very common principle that, Directors would be personally liable for offences committed by a company under the relevant legislations. However, this liability is not one *imposed on all Directors uniformly; it is only imposed on such Directors who are in overall control of the affairs of the company (this implies control over the day-to-day affairs of the company). Those Directors who are not in overall charge of the company, but are only in control of certain aspects; or are aware of the policy of the company, but are not in charge of it, would not be held liable.*

IV. **Mr. Narayan Jee Thakur (Noticee No. 6)**

a. He had joined AATIPL during the period 2004-05 for the position of clerk. He had been discharging his duty as per work allocated by the Company. In 2010, the Company has forced him to become director of the Company and he had accepted to become director in the Company with an aim to save his employment and his livelihood. He was doing his work in the Company in capacity of Clerk, even after becoming a director and had never ever received any benefit of director. When the Company's business was growing, additional work of development and co-ordination with branches were allocated to him.

b. He was not being authorised to sign any financial instrument i.e., cheque or RTGS form. He was also not authorised to sign any documents except balance sheet which was mandatory as per the ROC provisions. He resigned from the Company in December, 2015 by serving 2 months' notice as per the Company policy but the Company did not give him acknowledgement for the same. The Company has filed documents with regard to his resignation with ROC in 2017.

c. Shri Abnish Kumar Sudhanshu had joined the Company as a technical analyst and later became a main person and holding key position in the Company. The entire financial matter of the Company including the managing director of the Company were under his control because he was leading a result-oriented marketing team since 2012, who brought huge amount of client's shares and securities on interest and fixed return. Since Mr. Sudhanshu had been bringing lot of stocks from the large number of clients on fixed return, he used to dominate the financial affair of the Company and become one of the major beneficiaries.

d. The shares and securities brought by the team of the Mr. Sudhanshu used to gets pledged with NBFC and funds were used by the Company. He has taken over the control of entire financial affairs of the Company in his single hand and the Company was bound to obey his direction and instructions. Mr. Sudhanshu used to blackmail the Company on account of huge value of shares and securities brought by him in the system. If the Company did not obey his instruction, he often threat that his client would demand all the shares and securities back. Therefore, the Company and its managing director have to listen and obey the instruction of Mr. Sudhanshu.

e. The police ("**EOW**") filed its reply to his bail application before the Hon'be Court of Additional Session Judge at Rohini, Delhi. It is evident from the reply that the police have failed to produce any single piece of evidence against him for alleged fraud committed by the Company. EoW has opposed his bail application on the ground that he was holding position of director in the Company and therefore he cannot escape from the responsibility. However, EoW reply clearly state that Mr. Sudhanshu was Promoter, executive director and Key Managerial Person of the Company apart from Mr. Sanjeeva Kumar Sinha.

f. The SCN issued is vague, as it does not provide any details relating to the role played by him in alleged violations of regulatory provisions when he was holding position of director in the Company. Allegation are based on the assumption and presumption without going into fact that whether the noticee was holding any right, power or privilege in the financial affair of the Company even after becoming a director of the Company. He has placed reliance upon the judgement of Hon'ble Supreme Court in the matters of *Gorkha Security*

Services v. Govt. (NCT of Delhi), (2014) 9 SCC 105 and S.L. Kapoor v. Jagmohan & Ors., (1980) 4 SCC 379.

g. SEBI being a statutory authority is duty bound to provide the documents relied upon while issuing the Notice to the entity in accordance with the principle of natural justice. However, in the present case, certain important documents have not been supplied to the Noticee. For instance, statement of Hiranand Jha and Ravi Niwas and Abnish Kumar Sudhanshu have not been provided in SCN. The Noticee in this regard has placed reliance upon the judgement of Hon'ble Supreme Court in the matter of *SEBI v. Price Waterhouse (Civil Appeal No. 6003-6004/12).*

h. It was alleged that employees and director informed that he was holding key position and looking after finance of AATIPL, however on perusal of statement, it may be appreciated that aforesaid persons nowhere given any statement against him or have submitted as alleged in the SCN.

i. With regard to interest payment made to the clients, it is submitted that the marketing team of the Company was liable for the violation because they have lured the greedy clients to give the shares and securities to the Company to earn interest and fixed return.

j. With regard to penalty, he has placed reliance upon the judgement of Hon'ble Supreme Court in the matters of *Hindustan Steel vs. State of Orissa (AIR 1970 SC 253)* and *Ranjit Thakur vs. Union of India (AIR 1987 SC 2386)*.

V. **<u>Mr. Abnish Kumar Sudhanshu (Noticee No. 7)</u>**

a. He was merely acted as a '*Director-Research*' and his job responsibilities as detailed herein above organizational chart had not even a remote connection with the account/ finance department of the AATIPL and with the operation of the banks and demat accounts of the AATIPL. It is settled law that each and every director of the company is not liable for the contraventions allegedly committed by the company. He placed reliance upon the judgement of Hon'ble Supreme Court in the matters of *Pooja Ravinder Devidasini* v. *State of Maharastra & Anr.*, SLP No. 9133-39 of 2010 and *National Small Industries Corpn. Ltd. v. Harmeet Singh Paintal*, (2010) 3 SCC 330.

b. It is only after 2018 amendments to the SEBI Act that Section 27 was amended and the word "*offence*" was replaced with the word "*contravention*". Thus, 2018 amendments to Section 27 of the SEBI Act made the directors of the company liable for the "*contravention*" of the Act, Rules and Regulations. Before 2018 amendments, directors could be held vicariously liable only for "*offences*", not for "*contraventions*" of the Act, Rules and Regulations allegedly committed by the company. SEBI Act provides for the "penalties and adjudication" in Chapter VI-A under Section 15-A to 15-JB for the contraventions of the SEBI Act, Rules and Regulations. It is important to submit here that the proceedings for "*penalties and adjudication*" under the aforesaid provisions could not have been undertaken against the directors of the company before 2018 amendments in the Section 27 of the SEBI Act because the erstwhile Section 27 (before 2018 amendments) made provisions for holding the directors vicariously liable only for the "*offences*" of the company, not for the "*contravention*" of the SEBI Act, Rules and Regulations. According to the SEBI Act, the cognizance of "*offence*" as defined under Section 24 can be taken only by the special courts as provided under Section 26, 26-A and 26-B of the SEBI Act. However, the present proceedings being not the proceedings for "*offences*", the same are not permissible *qua* the directors as per Section 27 (before 2018 amendments) of the SEBI Act. It is also submitted that present proceedings have been initiated for the contraventions allegedly committed during the investigation period from April 01, 2011 to March 31, 2017. The 2018 amendments in Section 27 of the SEBI Act cannot be given retrospective operation so as to make the directors vicariously liable for the contraventions allegedly committed by the company before 2018 amendments in view of Article 20(1) of the Constitution, which provides *"No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence".*

c. It is settled law that the concept of "*vicarious liability*" is alien to criminal law except when the statute creating the "*offences*" or "*contraventions/ penalties*" specifically provides for vicarious liability. Sub-section (1) provides for the liability of Director on account of his position and role. Such director can escape the vicarious liability sought to be fastened upon him by proving that the alleged offence/ contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence/ contravention. Sub-section (2) fastens the vicarious liability upon the officer of the company upon the positive proof of his involvement in the alleged offence/

contravention. SCN reveals that he is being sought to be implicated under sub-section (1), which holds the officer of the company liable on account of his role and position, not under sub-section (2), which requires positive proof of his involvement in the alleged offence/ contravention.

d. There is nothing on record to presume that he at the time of the commission of the alleged offence/ contravention, was in charge of, and was responsible to, the Company for the conduct of its business. It is also submitted that he did also not occupy the key position in the company such as a '*Managing Director*' or '*Whole-Time Director*' so as to raise the presumption of him being in charge of, and responsible to, the company for the conduct of its business. In this regard, the Noticee relies upon the judgments of the Hon'ble Supreme Court in *Pooja Ravinder Devidasini* v. *State of Maharastra & Anr. (supra)* and *National Small Industries Corpn. Ltd. v. Harmeet Singh Paintal (supra).*

e. He is a well-known researcher in the securities market and he used to be frequently invited by various news channels for keeping his research views on the securities market. AATIPL offered the directorship to him with the motive of harnessing his good-will. He had always exercised the due diligence, while performing his duties as Director-Research. However, despite exercising the due diligence, he could not become privy to various contraventions allegedly committed by AATIPL and its top management in dealing with investors' funds and securities.

f. He had taken a certificate from the AATIPL regarding his role and job responsibilities in the Company, which reads as - *"This is to certify that Mr. Abnish Kumar Sudhanshu (Director-Research) is not involved in any Trading/ DP and day to day financial activity of the company. He has been dealing with the equity research and has been confined in this area only. He bears a good moral character."* Later on, he realized that he had been made the director for the name sake and he had no role in the conduct and management of the day to day affairs of the Company and therefore, he tendered his resignation from the directorship long back on January 13, 2016 *via* e-mail. He again written an e-mail on December 29, 2016 for accepting his resignation from the post of director. However, same was officially recorded on January 24, 2017 only.

g. No Board Resolution or Power of Attorney was ever passed/ executed by the Board of

Director of AATIPL in his favour authorizing him to do any act on behalf of the AATIPL or conferring any powers upon him. He had no power/ authority to control/ operate/ manage any of the bank/ demat accounts of the AATIPL, which were the medium to commit various contraventions in dealing with investors' funds and securities. SCN reveals that it was the Managing Director, Mr. Sanjeeva Kumar Sinha and his family members/ friends, who were the Promoter(s)/ Director(s) of AATIPL/ ACPL and several other related/ associated/ group companies/ entities. The SCN also reveals that Mr. Sanjeeva Kumar Sinha and his family members/ friends held major shareholdings in AATIPL/ ACPL and other related/ associated/ group companies/ entities. Mr. Sanjeeva Kumar Sinha only had been managing the day to day affairs of the company including overseeing the regulatory compliance and correspondence with the stock exchanges. Thus, there is no evidence of the Noticee having any role in the commission of any contravention of the Act, Rules and Regulations allegedly committed by the AATIPL.

VI. **Ms. Amita Sinha (Noticee No. 8)**

a. She does not hold any technical degrees which would in any manner enable her to handle the responsibility of a director of any company or provide her requisite knowledge about the periodical regulatory compliances which are provided in law. She accepted to be the director of the Noticee No. 2 company, solely out of love, affection, and respect towards his elder brother. She has never drawn any salary from the post of director and further does not hold any significant shareholding in the Noticee No. 2 company and has further not received any dividend from the Noticee No. 2 either. She does not hold any technical, financial, or professional know-how to understand the nuances of the responsibilities of a director of a company or the working of a company.

b. She has never taken any part in the day-to-day affairs of Noticee No. 2 company and has never been involved in any decision making regarding the functioning and workings of the said company. She merely applied her signature on certain documents like balance sheet. It is submitted that mere application of signature on balance sheet neither shows any understanding of the content of the balance sheet nor displays any understanding or knowhow of the day to day operations or transactions carried on by the Noticees No. 1 and 2 companies.

c. None of the documents relied upon by the Adjudicating Officer or provided to her, directly or indirectly indicates or proves beyond all reasonable doubt that she was involved in the day-to-day functioning or decision making of the Noticees No. 1 or 2. It does not indicate in any manner any act or omission on her part. Further, statements of Deepak Kumar, Ranjit Kumar, Narayan Jee Thakur, and Sujeet Kumar Sona as recorded and provided to her in any manner name or implicate her for any of the actions of the Noticees No. 1 or 2.

d. While deciding the involvement of her in the parallel proceedings, the Hon'ble WTM in his order dated August 06, 2021 held that:

"**61.** …*Considering all these factors, I am of the opinion that the Noticee cannot escape liability arising out of her directorship of ACPL during the relevant period.*"

It is most humbly submitted that despite the Hon'ble WTM recording that she cannot escape liability arising out of her directorship, there is nothing in the said Order which makes her liable for any penal wrong which may or may not have been committed by the Noticee No. 1 and 2 Companies. By aforesaid order, she merely restrained from engaging in the securities market for a period of two years owing to the fact that no evidence was found by SEBI in the matter remotely indicating that the present Noticee was ever involved in the management or decision-making of the concerned companies and that the present Noticee had a minimal shareholding in the said entities. Hon'ble WTM, through corrigendum dated August 10, 2021 also vacated the directions issued in the interim order in her favor.

e. She doesn't have a shareholding of more than 5% in either of the said companies, i.e. Notice No. 1 and Noticee No. 2. The minimal shareholding of her shows that the she had no substantial control of the said companies and was also not a part of the management or decision-making in the said companies. She was merely a dormant Director and was not aware of the transactions conducted by the company along with the broker M/s. AATIPL, i.e. Noticee No.1.

VII. **Ms. Vandana Sinha (Noticee No. 9)**

a. She was sleeping/ dormant director in ACPL and she never entered into any transaction in her entire life. She has not gained any undue or unfair advantage from ACPL by siphoning of any accounts and she cannot be attributed with any *mala fide* intention.

b. At the time of incorporation of ACPL, Noticee No. 3 himself indicated that he needed a sleeping director who can be trusted and therefore, out of love and affection she had agreed to become a namesake director in ACPL. She has been made director by her husband to fulfill the legal requirement of minimum number of directors. She is a housemaker who have no knowledge of working of a company. Further, she never attended any meeting and / or represented ACPL at any forum in her entire life. She may only have signed the documents given to her by her husband regarding some company.

c. The pledge transactions or financial transactions between Noticees No. 1 and 2 are not within her knowledge. She does not understand the technicalities and she has never operated any demat or trading account in her entire life.

d. The amount of Rs 34.366 crores mentioned in the SCN is not in her knowledge as she is not aware of the transaction. The said amount is false and misleading and there is serious miscalculation on the part of authorities. Table 15 refers towards 3,41,43,546.12, however, page no. 28 of SCN refers towards Rs 34.366 crores.

e. The genesis of the present matter is hidden in a reference from NSE dated August 10, 2017, however, same documents is not provided along with the SCN. Thus, she cannot be held liable based on a document, which has not been provided to her.

f. As per Table 6, for GFL amount of stock value pledge is showing Rs 2.23 crore and the outstanding position of the loan amount is showing Rs 18.19 crores, which itself raises doubt that, how can a loan of Rs 18 crores rupees be given on a pledge of Rs 2.23 crores stock. This raises doubt about the genuineness of the aforesaid calculation. In light of above miscalculation whole SCN is unsustainable. Further, it is apparent on the face that the lenders have been using misery of all the Noticee to SCN in their favor and creating false documents to show the outstanding position which is approximately 9 times more than the stock pledge.

g. It is alleged that AATIPL and ACPL has misutilised the funds of the clients and the available funds across all bank accounts were short of payable funds, clearly indicating fund shortage. However, in the same table no. 8, receivable has been completely ignored. As if receivables are taken into the account then the payable funds can easily be paid and the noticees can be exonerated with surplus of Rs 70 crores.

h. As per SCN there was no actual amount involved whichcan be stated to be considered as a wrongful gain by her, the only amount mentioned in amount payable to meet the client obligations, which can easily be paid from the receivables is around Rs. 134 crores and the rest of the violations are merely technical for which no director albeit a dormant director become liable.

13. I have considered the allegation levelled in the terms of reference, the relevant material brought on record, reply/ submissions of the Noticees and oral submissions made during the personal hearing before the undersigned. Before dealing the case, it would be appropriate to provide reference to the provisions alleged to be violated by the Noticees at the relevant times and same read as follows: -

SEBI Act, 1992

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12(1) *No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:*

Provided *that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:*

Provided *further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.*

(1A) *No depository, participant, custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:*

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, participant, custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. *No person shall directly or indirectly—*

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

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

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

SCR Rules, 1957

Qualifications for membership of a recognised stock exchange.

8. *The rules relating to admission of members of a stock exchange seeking recognition shall inter alia provide that:*

(3) *No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—*

(f) *he engages either as principal or employee in any business other than that of securities or commodity derivatives except as a broker or agent not involving any personal financial liability, provided that—*

(i) *the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,*

(ii) *in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,*

PFUTP Regulations, 2003

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) *buy, sell or otherwise deal in securities in a fraudulent manner;*

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

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

(p) *an intermediary predating or otherwise falsifying records such as contract notes;*

<u>Stock Broker Regulations, 1992</u>

Conditions of registration.

9. *Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely, -*

(b) *he shall abide by the rules, regulations and bye-laws of the stock exchange which are applicable to him;*

(e) *he shall take adequate steps for redressal of grievances, of the investors within one month of the date of receipt of the complaint and inform the Board as and when required by the Board;*

(f) *he shall at all times abide by the Code of Conduct as specified in Schedule II; and*

Liability for monetary penalty.

26. *A stock broker or a sub-broker shall be liable for monetary penalty in respect of the following violations, namely—*

(ii) *Failure to furnish any information, books or other documents within 15 days of issue of notice by the Board.*

(iii) *Failure to maintain books of account or records as per the Act, rules or regulations framed thereunder.*

(iv) *Failure to redress the grievances of investors within 30 days of receipts of notice from the Board.*

(vi) *Failure to deliver any security or make payment of the amount due to the investor within 48 hours of the settlement of trade unless the client has agreed in writing otherwise.*

(xi) *Indulging in fraudulent and unfair trade practices relating to securities.*

(xiii) *Failure to segregate his own funds or securities from the client's funds or securities or using the securities or funds of the client for his own purpose or for purpose of any other client.*

(xv) *Failure to comply with directions issued by the Board under the Act or the regulations framed thereunder.*

(xvi) *Failure to exercise due skill, care and diligence.*

(xx) *Violations for which no separate penalty has been provided under these regulations.*

SCHEDULE II
Stock Brokers Regulations, 1992
CODE OF CONDUCT FOR STOCK BROKERS [Regulation 9]

A. General.

(1) Integrity: *A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.*

(2) ***Exercise of due skill and care:*** *A stock-broker shall act with due skill, care and diligence in the conduct of all his business.*

(3) ***Manipulation:*** *A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.*

(4) ***Malpractices:*** *A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stockbroker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.*

(5) ***Compliance with statutory requirements:*** *A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.*

Circular No. SMD/SED/CIR/93/23321 dated November 18, 1993

Regulation Of Transactions Between Clients And Brokers

This has reference to SEBI's letter No.SMD/SED/2913/93 dated March 9, 1993. On receiving the comments from various stock exchanges on the norms circulated by us it has been decided that the norms as set out in the annexure shall be made applicable to the stock brokers in all the stock exchanges. You are, therefore, hereby directed to make necessary provisions in your Bye-laws and Regulations for the purpose. The amendments to be made to the Bye-laws and Regulations should be forwarded to us for formal approval.

The norms are required to be made applicable in all the stock exchanges with effect from January 1, 1994 onwards. These may be widely circulated amongst member-brokers so that they are made aware of the proposed measures.

REGULATION OF TRANSACTIONS BETWEEN CLIENTS AND BROKERS

1. It shall be compulsory for all Member brokers to keep the money of the clients in a separate account and their own money in a separate account. No payment for transactions in which the Member broker is taking a position as a principal will be allowed to be made from the client's account. The above principles and the circumstances under which transfer from client's account to Member broker's account would be allowed are enumerated below.

A] Member Broker to keep Accounts: Every member broker shall keep such books of accounts, as will be necessary, to show and distinguish in connection with his business as a member -

i. Moneys received from or on account of each of his clients and,
ii. the moneys received and the moneys paid on Member's own account.

B] Obligation to pay money into "clients accounts". Every member broker who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the member in the title of which the word "clients" shall appear (hereinafter referred to as "clients account"). Member broker may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit: Provided that when a Member broker receives a cheque or draft representing in part money belonging to the client and in part money due to the Member, he shall pay the whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para D (ii).

C] What moneys to be paid into "clients account". No money shall be paid into clients account other than -

i. money held or received on account of clients;
ii. such money belonging to the Member as may be necessary for the purpose of opening or maintaining the account;
iii. money for replacement of any sum which may by mistake or accident have been drawn from the account in

contravention of para D given below;
iv. a cheque or draft received by the Member representing in part money belonging to the client and in part money due to the Member.

D] What moneys to be withdrawn from "clients account". No money shall be drawn from clients account other than -

i. money properly required for payment to or on behalf of clients or for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;
ii. such money belonging to the Member as may have been paid into the client account under para 1 C [ii] or 1 C [iv] given above;
iii. money which may by mistake or accident have been paid into such account in contravention of para C above.

E] Right to lien, set-off etc., not affected. Nothing in this para 1 shall deprive a Member broker of any recourse or right, whether by way of lien, set-off, counter-claim charge or otherwise against moneys standing to the credit of clients account.

2. It shall be compulsory for all Member brokers to keep separate accounts for client's securities and to keep such books of accounts, as may be necessary, to distinguish such securities from his/their own securities. Such accounts for client's securities shall, inter-alia provide for the following: -

a. Securities received for sale or kept pending delivery in the market;
b. Securities fully paid for, pending delivery to clients;

c. Securities received for transfer or sent for transfer by the Member, in the name of client or his nominee(s);

d. Securities that are fully paid for and are held in custody by the Member as security/margin etc. Proper authorization from client for the same shall be obtained by Member;

e. Fully paid for client's securities registered in the name of Member, if any, towards margin requirements etc.;

f. Securities given on Vyaj-badla. Member shall obtain authorization from clients for the same.

3. Member Brokers shall make payment to their clients or deliver the securities purchased within two working days of pay-out unless the client has requested otherwise. Stock Exchange shall issue a Press Release immediately after the pay-out.

4. Member Brokers shall buy securities on behalf of client only on receipt of margin of minimum 20 percent on the price of the securities proposed to be purchased, unless the client already has an equivalent credit with the broker. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's.

5. Member brokers shall sell securities on behalf of client only on receipt of a minimum margin of 20 percent on the price of securities proposed to be sold, unless the member has received the securities to be sold with valid transfer documents to his satisfaction prior to such sale. Member may not, if they so desire, collect such a margin from Financial Institutions, Mutual Funds and FII's.

6. Member brokers shall issue the contract note for purchase/sale of securities to a client within 24 hours of the execution of the contract.

7. In case of purchases on behalf of clients, Member brokers shall be a liberty to close out the transactions by selling the securities, in case the client fails to make the full payment to the Member Broker for the execution of the contract within two days of contract note having been delivered for cash shares and seven days for specified shares or before pay-in day (as fixed by Stock Exchange for the concerned settlement period), whichever is earlier;

unless the client already has an equivalent credit with the Member. The loss incurred in this regard, if any, will be met from the margin money of that client.

8. In case of sales on behalf of clients, Member broker shall be at liberty to close out the contract by effecting purchases if the client fails to deliver the securities sold with valid transfer documents within 48 hours of the contract note having been delivered or before delivery day (as fixed by Stock Exchange authorities for the concerned settlement period), whichever is earlier. Loss on the transaction, if any, will be deductible from the margin money of that client.

Circular No. SEBI/MRD/SE/Cir- 33/2003/27/08 dated August 27, 2003

Mode of payment and delivery

1. *Please refer to SEBI circular No. SMD/SED/CIR/93/23321 and letter No. SMD-1/23341 dated November 18, 1993 regarding regulation of transactions between clients and brokers.*

2. *It is reiterated that brokers and sub-brokers should not accept cash from the client whether against obligations or as margin for purchase of securities and / or give cash against sale of securities to the clients.*

3. *All payments shall be received / made by the brokers from / to the clients strictly by account payee crossed cheques / demand drafts or by way of direct credit into the bank account through EFT, or any other mode allowed by RBI. The brokers shall accept cheques drawn only by the clients and also issue cheques in favour of the clients only, for their transactions. However, in exceptional circumstances the broker or sub-broker may receive the amount in cash, to the extent not in violation of the Income Tax requirement as may be in force from time to time.*

4. *Similarly in the case of securities also giving / taking delivery of securities in "demat mode" should be directly to / from the "beneficiary accounts" of the clients except delivery of securities to a recognized entity under the approved scheme of the stock exchange and / or SEBI.*

5. *The undersigned has been authorized to direct the exchanges to*

   5.1. *make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision immediately.*

   5.2. *bring the provisions of this circular to the notice of the member brokers/clearing members of the Exchange and also to disseminate the same on the website.*

   5.3. *communicate to SEBI, the status of the implementation of the provisions of this circular in Section II, item no. 13 of the Monthly Development Report for the month of August, 2003.*

6. *This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, read with Section 10 of the Securities Contracts (Regulation) Act 1956, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.*

Circular No. CIR/MIRSD/16/2011 dated August 22, 2011

Simplification and Rationalization of Trading Account Opening Process.

Annexure 4 - Document stating the Rights & Obligations of stock broker, sub-broker and client for trading on exchanges (including additional rights & obligations in case of internet / wireless technology based trading)

15. The stock broker shall ensure that the money/securities deposited by the client shall be kept in a separate account, distinct from his/its own account or account of any other client and shall not be used by the stock broker for himself/itself or for any other client or for any purpose other than the purposes mentioned in Rules, Regulations, circulars, notices, guidelines of SEBI and/or Rules, Regulations, Bye-laws, circulars and notices of Exchange.

33. The stock broker shall make pay out of funds or delivery of securities, as the case may be, to the Client within one working day of receipt of the payout from the relevant Exchange where the trade is executed unless otherwise specified by the client and subject to such terms and conditions as may be prescribed by the relevant Exchange from time to time where the trade is executed.

Circular No. MIRSD/ SE /Cir-19/2009 dated December 03, 2009

Requirements relating to dealings between a Client and Stock Broker

Running Account Authorization

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

a. The authorization shall be renewed at least once a year and shall be dated.

b. The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.

c. The authorization shall contain a clause that the Client may revoke the authorization at any time.

d. For the clients having outstanding obligations on the settlement date, the stock broker may retain the requisite securities/funds towards such obligations and may also retain the funds expected to be required to meet margin obligations for next 5 trading days, calculated in the manner specified by the exchanges.

e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.

f. The client shall bring any dispute arising from the statement of account or settlement so made to the notice of the broker preferably within 7 working days from the date of receipt of funds/securities or statement, as the case may be.

g. Such periodic settlement of running account may not be necessary:

> *i. for clients availing margin trading facility as per SEBI circular*
>
> *ii. for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG)/Fixed Deposit receipts (FDR).*

h. The stock broker shall transfer the funds / securities lying in the credit of the client within one working day of the request if the same are lying with him and within three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.

i. There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.

j. These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them.

Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016

Enhanced Supervision of Stock Brokers/Depository Participants

1. SEBI constituted a committee on "Enhanced Supervision of Stock Brokers", which included representatives from Stock Exchanges, Depositories and Brokers. With a view to implement the recommendations, the guidelines as Annexed to this circular are being issued. These guidelines cover the following broad areas:

I. Uniform nomenclature to be followed by stock brokers for Naming/Tagging of Bank and Demat Accounts and the reporting of such accounts to the Stock Exchanges/Depositories.

II. Monitoring of Clients' Funds lying with the Stock Broker by the Stock Exchanges, through a sophisticated alerting and reconciliation mechanism, to detect any misutilisation of clients fund.

III. Changes in the existing system of internal audit for stock brokers/depository participants viz. appointment, rotation of Internal Auditors, formulation of objective sample criteria, monitoring of quality of Internal Audit Reports, timeline for submissions of Internal Audit Reports, etc.

IV. Monitoring of Financial Strength of Stock Brokers by Stock Exchanges so as to detect any signs of deteriorating financial health of stock brokers and serve as an early warning system to take preemptive and remedial measures.

V. Imposition of uniform penal action on stock brokers/depository participants by the Stock Exchanges/Depositories in the event of non-compliance with specified requirements.

VI. Other Requirements:

a. Uploading client's funds and securities balances by Stock Brokers to Stock Exchange System and onwards transmission of the same to the clients for better transparency.

b. Clarification on Running Account Settlement

c. Providing PAN details of Directors, Key Management Personnel and Dealers, to Stock Exchanges and any change thereof.

2. The Stock Exchanges/Depositories are directed to:

a. bring the provisions of this circular to the notice of the Stock Brokers/depository participants and also disseminate the same on their websites.

b. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above directions in co-ordination with one another to achieve uniformity in approach.

c. communicate to SEBI, the status of the implementation of the provisions of this circular in their Monthly Development Reports.

3. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interest of investors in securities and to promote the development of and to regulate the securities market.

Note: Annexure to the aforesaid circular to be referred.

Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013

Investor Grievance Redressal Mechanism

1) Reference may be made to CIR/MRD/DSA/03/2013 dated January 20, 2012, CIR/MRD/DSA/24/2010 dated August 11, 2010 and MRD/DoP/SE/Cir-38/2004 dated October 28, 2004.

2) With a view to streamline and make more effective the investor grievance redressal mechanism at Stock Exchanges, and consequent to discussions with Stock Exchanges and Depositories, it has been decided to shorten the time taken for the proceedings as well as to give monetary relief to the investors, during the course of pendency of proceedings. In this regard, Stock Exchanges are advised as under:

a) Stock Exchanges shall ensure that all complaints are resolved at their end within 15 days as mentioned in the circular no. CIR/MRD/ICC/16/2012 dated June 15, 2012. The correspondence with the Member & investor (who is client of a Member) may be done on email if the email id of the investor is available in the UCC database. The Member (Stock Broker, Trading Member and Clearing Member) shall provide a dedicated email id to the stock exchange for this purpose.

b) In case the matter does not get resolved, conciliation process of the exchange would start immediately after the time lines stated in sub-para (a) above.

c) Investor Grievance Redressal Committee (IGRC) shall be allowed a time of 15 days to amicably resolve the investor complaint.

d) IGRC shall adopt a two-fold approach i.e. for proceedings leading to direction to the Member to render required service in case of service related complaints and proceedings leading to an order concluding admissibility of the complaint or otherwise in case of trade related complaints.

e) In case the matter is not resolved through the conciliation process, IGRC would ascertain the claim value admissible to the investor.

f) Upon conclusion of the proceedings of IGRC, i.e. in case claim is admissible to the investor, Stock Exchanges shall block the admissible claim value from the deposit of the Member.

g) The Stock Exchange shall give a time of 7 days to the Member from the date of signing of IGRC directions as mentioned under sub-para (d) above to inform the Stock Exchange whether the Member intends to pursue the next level of resolution ie. Arbitration.

h) In case, the Member does not opt for arbitration, the Stock Exchange shall, release the blocked amount to the investor after the aforementioned 7 days.

i) In case, the Member opts for arbitration and the claim value admissible to the investor is not more than Rs. 10 lac, the following shall be undertaken by the Stock Exchange

i. 50% of the admissible claim value or Rs. 0.75 lac, whichever is less, shall be released to the investor from IPF of the Stock Exchange.

ii. In case the arbitration award is in favour of the investor and the Member opts for appellate arbitration then a positive difference of, 50% of the amount mentioned in the arbitration award or Rs. 1.5 lac, whichever is less and the amount already released to the investor at clause (i) above, shall be released to the investor from IPF of the Stock Exchange.

iii. In case the appellate arbitration award is in favour of the investor and the Member opts for making an application under section 34 of the Arbitration and Conciliation Act, 1996 to set aside the appellate 3 *arbitration award, then a positive difference of 75% of the amount determined in the appellate arbitration award or Rs. 2 lac, whichever is less and the amount already released to the investor at clause (i) and (ii) above, shall be released to the investor from IPF of the Stock Exchange.*

iv. Before release of the said amounts from the IPF to the investor, the Stock Exchange shall obtain appropriate undertaking/ indemnity from the investor against the release of the amount from IPF, to ensure return of the amount so released to the investor, in case the proceedings are decided against the investor.

v. If it is observed that there is an attempt by investor/client either individually or through collusion with Member(s) or with any other stakeholders, to misuse the provision of this Circular, then without prejudice to the powers of the Board to take action, appropriate action in this regard shall be taken against any such person, by the Stock Exchange, including disqualification of the person so involved from henceforth accessing the benefits of this Circular.

vi. In case the complaint is decided in favour of the investor after conclusion of the proceedings, then amount released to the investor shall be returned to IPF from the blocked amount of the Member by the Stock Exchange and the rest shall be paid to the investor.

vii. Total amount released to the investor through the facility of monetary relief from IPF in terms of this Circular shall not exceed Rs. 5 lac in one financial year.

viii. Stock Exchanges may devise a detailed procedure with regard to release of funds from IPF and recovery thereof and necessary formats of documentation.

ix. In case the investor loses at any stage of the proceedings and decides not to pursue further, then the investor shall refund the amount released from IPF, back to the IPF. In case the investor fails to make good the amount released out of IPF then investor (based on PAN of the investor) shall not be allowed to trade on any of the Stock Exchanges till such time the investor refunds the amount to IPF. Further, the securities lying in the demat account(s) 4 of the investor shall be frozen till such time as the investor refunds the amount to the IPF.

x. The Stock Exchanges may also resort to displaying the names of such investors on their websites if considered necessary.

3) With a view to rationalise the timelines involved in the arbitration mechanism, Stock Exchanges are advised as under:

a) As per clause 6.2 of circular no. CIR/MRD/DSA/24/2010 dated August 11, 2010 the Members are required to file application for appellate arbitration within one month of the date of receipt of arbitral award. Further as per section 34 (3) of the Arbitration and Conciliation Act, 1996 the Members have three months to make an application to set aside an arbitral award. In this regard, the Members shall convey their intention to Stock Exchanges within 7 days of receipt of the award, as regards whether such Members desire to challenge the arbitration award/appellate arbitration award in Court or not.

b) If the Members do not express their intent to challenge the arbitration award/appellate arbitration award then it would be presumed that Members does not intend to challenge the award and the Stock Exchange shall take further steps accordingly. In addition to the above, the stock exchanges shall also take the below mentioned steps:

4) With a view to address complaints regarding 'unauthorised trades' Stock Exchanges are advised to direct the Members to put in place the following:

a) In case the Member has made margin calls to the client and the client has failed to comply with these margin calls, then the contract note issued by Member for transactions owing to non-compliance of such margin calls would bear a remark specifying the same.

b) The Member shall maintain a verifiable record of having made such margin calls and that the clients have not complied with the same.

5) With a view to assist investors engaged in dispute resolution process, Stock Exchanges shall set up facilitation desks at all investor service centres as specified by SEBI from time to time. These facilitation desks would interalia also assist investors in obtaining documents/details from Stock Exchanges wherever so required for making application to IGRC and filing arbitration.

6) The stock exchanges are advised to:-

a) make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision immediately;

b) bring the provisions of this circular to the notice of the members of the stock exchange and also to disseminate the same through their website; and

c) take steps to make the investors aware of the scheme.

d) communicate to SEBI, the status of implementation of the provisions of this circular in the Monthly Development Reports to SEBI.

7) This Circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with Section 9(2)(n) and Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market and shall come into effect immediately.

14. I note that the Noticees have raised several common contentions and some specific contentions through their written and oral submission during the instant proceedings. I will first deal with the technical contention raised by Noticee No. 7, wherein, he contended that before 2018 amendments of Section 27 to the SEBI Act, directors could be held vicariously liable only for "*offences*", not for "*contraventions*" of the Act, Rules and Regulations allegedly committed by the company. Further, SEBI Act provides for the "*penalties and adjudication*" in Chapter VI-A under Section 15-A to 15-JB for the contraventions of the SEBI Act, Rules and Regulations. It is important to submit here that the proceedings for "*penalties and adjudication*" under the aforesaid provisions could not have been undertaken against the directors of the company before 2018 amendments in the Section 27 of the SEBI Act. Having carefully gone through the said contention, I find that the same is patently misplaced and not worthy of acceptance. As can be noted from the SCN, the Noitcee No. 7 has been charged for the acts and omissions carried out by the Company, Noticee 1, wherein the Noticee No. 7 was one of the designated director, and by being so, the Noticee No. 7 was at the helm of the affairs of the AATIPL. As laid down in numerous judgments, including the judgment of *N Narayanan vs Adjudicating Officer, SEBI* on 26 April, 2013, a company being a legal entity cannot act on itself and has to act only through its directors, who are the natural persons controlling its day to day

affairs. I further observe that by bringing the amendment in Section 27 from "*offences*" to "*contraventions*", the scope of taking action by SEBI has been taken even beyond the "*Directors*", who are statutorily admitted to be in control of the affairs of a company. By virtue of Section 27, even those persons who though are not part of the Board of Directors, but are in charge of and responsible to the company for the conduct of the business of the company, can also be charged for the violations committed by such company. The said amendment has not brought in any new classes of charges/offence so as to give a ground to the Noticee to seek prospective application of such amended provision or to give a ground of defense under Article 20(1) of the Constitution of India. In the present case, as stated earlier, the Noticee No. 7 has been charged because of his directorship by virtue of which, all acts and omissions on the parts of the Company, including those which formed the basis of the allegation in the present proceedings, have to be attributed to the Noticee. Thus, I do not find merit in the contention and the same is thus rejected hereby.

15. Coming to the merit of the case, I note that Noticees No. 1 and 2 has not made any written or oral submissions before me and failed to avail the opportunities extended to them. Accordingly, I will proceed on the basis of material available on record and from the same I note as follows:

I. **<u>Non-submission of Information sought through summons:</u>** I note that several information and documents was sought under Section 11(2), 11(3) and 11C (3) read with 11C (5) of the SEBI Act, 1992 from AATIPL, vide summons dated 31.08.2017 and subsequent summons dated 09.10.2017, 24.01.2018 & 07.02.2018 and from ACPL vide summon dated 31.08.2017 and subsequent summons dated 09.10.2017 & 07.02.2018, respectively. I further note that these summons were duly served upon them, however, despite repeated reminders to AATIPL and ACPL, they had failed to submit any information sought from them. Therefore, in my view by holding such important information/ documents, these Noticees have hampered and delayed the investigation process. Also, being a registered intermediary of securities market, it was desired from these Noticees to maintain high standards of integrity, promptitude and fairness and to act with due skill, care and diligence in the conduct of all their business. It is further required that being a stock-broker, they shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time. However, Noticees No. 1 and 2 not only failed in their duty casted upon them *via* statute, but also not cooperated in the fact finding exercise. Considering the same, I am of the opinion that Noticees No. 1 and 2 have violated the provisions of Clauses A (1), (2), (3) and (5) of the Code of Conduct specified in Schedule II of Regulation 9 of the Stock Brokers Regulations and conditions of registration as specified under Regulation 9(b) and (f) of the Stock Brokers Regulations.

II. **Non-segregation of clients' funds and securities:**

a. From the analysis of demat statements of AATIPL, I note that, there was movement of securities between client beneficiary account and own/ business account of AATIPL on a regular basis. Further, clients' securities had been mis-appropriated by AATIPL by transferring it to ACPL and by pledging securities with the Non-Banking Finance Companies ('**NBFCs'**). I further note that, Mr. Sanjeeva Sinha, Managing Director ("**MD**") of AATIPL and ACPL vide his submissions during investigation on August 11, 2017 had admitted that "*stocks of some clients were sold off through the accounts of certain employee's viz. Deepak Kumar, Ranjit Kumar, Sanjeet Kumar and Mukesh Kumar*".

b. On analysis of the trades carried out in the accounts of the aforesaid 4 employees during the period from 01-Apr-16 to 10-Aug-17, it is noted that they have sold securities worth Rs. 130.85 cr. In this regard, details of client securities sold are as under:

Table 4: Client securities details

Client code	Client name	Total value of net sell trades for the period (01-Apr-16 to 10-Aug-17)	Total amount of net sell trades verified	Amount of securities sold without possessing the same
DK21	Kumar Deepak	1,34,63,88,628	1,34,40,63,404	1,19,58,41,419
RK36	Kumar Ranjit	75,07,45,984	19,04,66,684	3,50,66,856
MK11	Mukesh Kumar	1,88,10,46,533	6,77,89,919	3,86,87,311
SK24	Sanjeet Kumar	1,96,68,43,176	6,91,29,502	3,89,17,999
	Total			**1,30,85,13,585.00**

c. It was observed that on those dates, the securities required for making the pay-in were not available in the aforesaid clients' accounts. However, AATIPL has made the pay-in successfully clearly indicating that the securities of other clients were utilised for the pay-in. During the investigation, statements of the two employees Deepak Kumar and Ranjit Kumar were recorded on August 29, 2017, wherein, they stated that the had been working in the capacity of field boy/ peon/ pantry boy in AATIPL. They further submitted that they have neither traded in the securities market nor they have any knowledge of trading account having been opened in their names. They also stated that they had not entered into any financial transaction with the company and had not received any funds in their accounts except for salary. In this regard, I note from above table that during aforesaid period Deepak Kumar has sold Rs 119.58 crores (approx.) securities without possessing them and Ranjit Kumar has sold Rs 3.50 crores (approx.) securities without possessing them. Further, when the aforesaid employees were specifically being asked, whether they were aware that any trading account was opened in their name with AATIPL, the said employees categorically denied having any knowledge. I note from Ranjeet Kumar statement that, he has stated that - "*No, I have no knowledge. I used to sign wherever I was told to sign. I am 10th pass. I have no knowledge of these things.*" Also, Deepak Kumar has submitted a copy of his ID card, which specifically mentioned his designation as "*Field Executive*". Considering the above facts, it can fairly be assumed that the aforesaid employees did not have the financial ability to carry out such large quantum of trading and neither were they owner of the securities which were sold through their trading account.

d. The above findings are further corroborated with the statement of Mr. Sanjeev, Noticee No. 3, wherein, in his statement recorded on August 11, 2017 before SEBI, he has stated that -*"Some of the clients' stocks were sold off in the company. These stocks were sold off through some of the employees' account and the loss of the company was covered, which were mainly due to clients' debit, branch expansion and interest payment to clients."* In view of the above, I found that the securities which were sold from the accounts of the aforesaid employees belonged to the clients' of AATIPL and the trading accounts of the said employees were merely used as a conduit by AATIPL for selling client securities for its own benefit. In terms of Clause 15 of Rights and Obligations document for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular no. CIR/MIRSD/ 16/2011 dated August 22, 2011, a stock broker shall ensure that the money/securities deposited by the client shall be kept in a separate account, distinct from his/its own account or account of any other client and shall not be used by the stock broker for himself/itself or for any other client or for any purpose other than the purposes mentioned in Rules, Regulations, circulars, notices, guidelines of SEBI and/or Rules, Regulations, Bye-laws, circulars and notices of Exchange. Therefore, by engaging in such act, Noticees No. 1 and 2 have violated the aforesaid provisions of Clause 15.

III. **Pledging of client securities:**

a. It is noted from the interim order that the Noticees No. 1 and 2 have raised funds by way of pledging the clients' securities with Axis Bank ('**Axis'**), Globe Fincap Ltd ('**GFL'**) and ECL Finance ('**ECL'**) during the relevant period. As per the information provided by aforesaid entities, the outstanding position of pledge as on March 31, 2017 is as follows:

Table 05: Pledge details

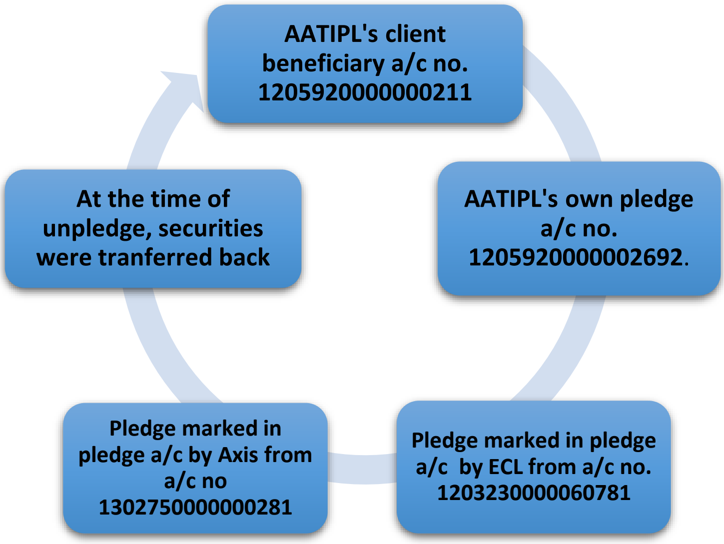
Sl. No.	Name of the entity	Outstanding position	Stock value
1	Axis Bank Ltd.	18,549,252.00	37,098,504.00
2	Globe Fincap Ltd. (GFL)	181,957,124.00	22,345,584.00
3	ECL Finance Ltd.	315,758,925.00	621,514,020.00
Total		**516,265,301.00**	**680,958,108.00**

b. I note from above table that as on March 31, 2017, securities amounting to Rs. 68 crores were pledged by AATIPL with the aforesaid entities and total outstanding fund as per these entities, the pledge amounting to Rs. 51.63 crores were raised. During the analysis of bank statements of AATIPL, several entries of receipts and payments to and from the aforesaid NBFCs were noticed in the Axis own A/c or Own A/c or Businesses Bank (a/c no. 909020031142977), ICICI own /Businesses bank (000705028003) and HDFC own/ Businesses bank (14422000000372) accounts, which indicates that the broker was pledging securities with aforementioned NBFCs on regular basis.

c. I further note that, when the NBFCs were enquired about the ownership of these securities, GFL submitted that, the pledging was done by AATIPL through its demat a/c no. 1205920000000211. It is found that said demat a/c is the '*client beneficiary*' account held in the name of Noticee No. 1 with its own DP arm and therefore, I am of a view that Noticee No. 1 had pledged its clients' securities with GFL.

d. Further, ECL and Axis submitted that, pledging of clients' securities was used to be carried out by way of marking pledge in the Noticee No. 1 demat a/c no. 1205920000002692. It was observed that the aforesaid demat a/c was the '*pledge account*' held in the name of Noticee No. 1. In addition, these entities also submitted that AATIPL had submitted an undertaking with them mentioning that the '*securities which are being pledged are absolute property of AATIPL and same is unencumbered*'.

e. I have found following process (*depicted in the flowchart below*) employed by the Noticees No. 1 and 2 for pledging their client's securities with ECL and Axis:



f. From the above, I note that, AATIPL used to transfer the securities from its client beneficiary account no. 1205920000000211 to its own pledge account no. 1205920000002692. Thereafter, the pledge was used to be created in its own pledge a/c. In case of ECL, the pledge was marked from a/c no. 1203230000060781 (DP a/c maintained by AATIPL with ECL DP) to AATIPL's own pledge account and in case of Axis bank, the pledge was marked from a/c no 1302750000000281 (DP a/c maintained by AATIPL with Axis DP) to AATIPL's own pledge account. Further, at the time of un-pledge, the securities were transferred/released back to the source a/c i.e. client beneficiary demat a/c no. 1205920000000211. Certain transactions of pledge which were carried out by AATIPL in the aforesaid method are illustrated as follows-

Table 6: Extract of demat a/c no. 1205920000002692

ISIN Desc.	Transaction Date	Particulars	Counter party Name	Debit/ Credit	Qty	Qty after Transaction
63 Moons Technologies Limited# New Equity Shares Of Rs.2/- After Capital Reduction	31/08/2016	OF-CR TD:907678 TX:728219 1205920000000211	AATIPL	C	1050	1050
63 Moons Technologies Limited# New Equity Shares Of Rs.2/- After Capital Reduction	31/08/2016	Pledge Setup:02701086 CTR BO:1203230000060781 CR PSB	ECL	C	1050	1050

ISIN Desc.	Transaction Date	Particulars	Counter party Name	Debit/ Credit	Qty	Qty after Transaction
63 Moons Technologies Limited# New Equity Shares Of Rs.2/- After Capital Reduction	01/09/2016	Pledge Accept:02701086 CTR BO:1203230000060781 DR PSB	ECL	D	1050	1050
63 Moons Technologies Limited# New Equity Shares Of Rs.2/- After Capital Reduction	01/09/2016	Pledge Accept:02701086 CTR BO:1203230000060781 CR Pledge	ECL	C	1050	1050
63 Moons Technologies Limited# New Equity Shares Of Rs.2/- After Capital Reduction	14/09/2016	Unpledge Accept:02701086 Counter:0001 DR Pledge		D	1050	1050
63 Moons Technologies Limited# New Equity Shares Of Rs.2/- After Capital Reduction	14/09/2016	OF-DR TD:612484 TX:175447 1205920000000211	AATIPL	D	1050	0
A.F. Enterprises Limited # Equity Shares	08/06/2016	OF-CR TD:316284 TX:331981 1205920000000211	AATIPL	C	10981	10981
A.F. Enterprises Limited # Equity Shares	08/06/2016	Pledge Setup:02575946 CTR BO:1203230000060781 CR PSB	ECL	C	10981	10981
A.F. Enterprises Limited # Equity Shares	08/06/2016	Pledge Accept:02575946 CTR BO:1203230000060781 DR PSB	ECL	D	10981	10981
A.F. Enterprises Limited # Equity Shares	08/06/2016	Pledge Accept:02575946 CTR BO:1203230000060781 CR Pledge	ECL	C	10981	10981
A.F. Enterprises Limited # Equity Shares	13/06/2016	Unpledge Accept:02575946 Counter:0001 DR Pledge		D	6370	10981
A.F. Enterprises Limited # Equity Shares	13/06/2016	OF-DR TD:728023 TX:261003 1205920000000211	AATIPL	D	6370	4611
A.F. Enterprises Limited # Equity Shares	14/06/2016	Unpledge Accept:02575946 Counter:0002 DR Pledge		D	4611	4611
A.F. Enterprises Limited # Equity Shares	14/06/2016	OF-DR TD:862258 TX:531168 1205920000000211	AATIPL	D	4611	0
A2z Infra Engineering Limited#Equity Shares	25/04/2016	OF-CR TD:658198 TX:965036 1205920000000211	AATIPL	C	2000	2000
A2z Infra Engineering Limited#Equity Shares	25/04/2016	Pledge Setup:02517962 CTR BO:1203230000060781 CR PSB	ECL	C	2000	2000
A2z Infra Engineering Limited#Equity Shares	26/04/2016	Pledge Accept:02517962 CTR BO:1203230000060781 DR PSB	ECL	D	2000	2000
A2z Infra Engineering Limited#Equity Shares	26/04/2016	Pledge Accept:02517962 CTR BO:1203230000060781 CR Pledge	ECL	C	2000	2000
A2z Infra Engineering Limited#Equity Shares	27/04/2016	Unpledge Accept:02517962 Counter:0001 DR Pledge		D	200	2000
A2z Infra Engineering Limited#Equity Shares	27/04/2016	OF-DR TD:794775 TX:339622 1205920000000211	AATIPL	D	200	1800

ISIN Desc.	Transaction Date	Particulars	Counter party Name	Debit/ Credit	Qty	Qty after Transaction
A2z Infra Engineering Limited#Equity Shares	09/05/2016	Unpledge Accept:02517962 Counter:0002 DR Pledge		D	1000	1800
A2z Infra Engineering Limited#Equity Shares	09/05/2016	OF-DR TD:299408 TX:261230 1205920000000211	AATIPL	D	1000	800
A2z Infra Engineering Limited#Equity Shares	17/06/2016	Unpledge Accept:02517962 Counter:0003 DR Pledge		D	800	800
3m India Limited [Formerly Birla 3m Limited]	04/08/2015	OF-CR TD:940872 TX:362599 1205920000000211	AATIPL	C	80	80
3m India Limited [Formerly Birla 3m Limited]	04/08/2015	Pledge Setup:02172345 CTR BO:1203230000060781 CR PSB	ECL	C	80	80
3m India Limited [Formerly Birla 3m Limited]	04/08/2015	Pledge Accept:02172345 CTR BO:1203230000060781 CR Pledge	ECL	C	80	80
3m India Limited [Formerly Birla 3m Limited]	04/08/2015	Pledge Accept:02172345 CTR BO:1203230000060781 DR PSB	ECL	D	80	80
3m India Limited [Formerly Birla 3m Limited]	17/08/2016	Unpledge Accept:02172345 Counter:0001 DR Pledge		D	45	80
3m India Limited [Formerly Birla 3m Limited]	17/08/2016	OF-DR TD:704417 TX:304080 1205920000000211	AATIPL	D	45	35
3m India Limited [Formerly Birla 3m Limited]	04/10/2016	Unpledge Accept:02172345 Counter:0002 DR Pledge		D	3	35
3m India Limited [Formerly Birla 3m Limited]	04/10/2016	OF-DR TD:925329 TX:875109 1205920000000211	AATIPL	D	3	32
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	21/02/2014	OF-CR TD:671835 TX:209969 1205920000000211	AATIPL	C	164	164
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	21/02/2014	Pledge Setup:01693145 CTR BO:1203230000060781 CR PSB	ECL	C	164	164
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	21/02/2014	Pledge Accept:01693145 CTR BO:1203230000060781 DR PSB	ECL	D	164	164
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	21/02/2014	Pledge Accept:01693145 CTR BO:1203230000060781 CR Pledge	ECL	C	164	164
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	07/03/2014	Unpledge Accept:01693145 Counter:0001 DR Pledge		D	100	164
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	07/03/2014	OF-DR TD:763157 TX:559930 1205920000000211	AATIPL	D	100	64
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	11/03/2014	Unpledge Accept:01693145 Counter:0002 DR Pledge		D	64	64
Adani Enterprises Limited-Equity Shares Of Rs 1/- Each After Sub Division	11/03/2014	OF-DR TD:150368 TX:271953 1205920000000211	AATIPL	D	64	0
ABG Shipyard Limited - Equity Shares	03/02/2014	OF-CR TD:149893 TX:735426 1205920000000211	AATIPL	C	500	500

ISIN Desc.	Transaction Date	Particulars	Counter party Name	Debit/ Credit	Qty	Qty after Transaction
ABG Shipyard Limited - Equity Shares	03/02/2014	Pledge Setup:01683622 CTR BO:1302750000000281 CR PSB	Axis	C	500	500
ABG Shipyard Limited - Equity Shares	03/02/2014	Pledge Accept:01683622 CTR BO:1302750000000281 DR PSB	Axis	D	500	500
ABG Shipyard Limited - Equity Shares	03/02/2014	Pledge Accept:01683622 CTR BO:1302750000000281 CR Pledge	Axis	C	500	500
ABG Shipyard Limited - Equity Shares	05/02/2014	Unpledge Accept:01683622 Counter:0001 DR Pledge		D	100	500
ABG Shipyard Limited - Equity Shares	05/02/2014	OF-DR TD:434727 TX:450870 1205920000000211	AATIPL	D	100	400
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	29/03/2017	OF-CR TD:741386 TX:889909 1205920000000211	AATIPL	C	745	745
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	29/03/2017	Pledge Setup:02993079 CTR BO:1203230000060781 CR PSB	Axis	C	745	745
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	29/03/2017	Pledge Accept:02993079 CTR BO:1203230000060781 DR PSB	Axis	D	745	745
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	29/03/2017	Pledge Accept:02993079 CTR BO:1203230000060781 CR Pledge	Axis	C	745	745
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	31/03/2017	Unpledge Accept:02993079 Counter:0001 DR Pledge		D	140	745
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	31/03/2017	OF-DR TD:186263 TX:684338 1205920000000211	AATIPL	D	140	605
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	03/04/2017	Unpledge Accept:02993079 Counter:0002 DR Pledge		D	605	605
Ambuja Cements Limited-New Equity Shares Of Rs.2/- After Split	03/04/2017	OF-DR TD:466993 TX:345989 1205920000000211	AATIPL	D	605	0
Allahabad Bank-Equity Shares	15/07/2016	OF-CR TD:887196 TX:625773 1205920000000211	AATIPL	C	445	445
Allahabad Bank-Equity Shares	15/07/2016	Pledge Setup:02631655 CTR BO:1203230000060781 CR PSB	Axis	C	445	445
Allahabad Bank-Equity Shares	15/07/2016	Pledge Accept:02631655 CTR BO:1203230000060781 DR PSB	Axis	D	445	445
Allahabad Bank-Equity Shares	15/07/2016	Pledge Accept:02631655 CTR BO:1203230000060781 CR Pledge	Axis	C	445	445
Allahabad Bank-Equity Shares	19/07/2016	Unpledge Accept:02631655 Counter:0001 DR Pledge		D	445	445
Allahabad Bank-Equity Shares	19/07/2016	OF-DR TD:219596 TX:193815 1205920000000211	AATIPL	D	445	0

g. In terms of aforesaid discussions and illustrations in above sub-paras (a) to (f), I found that the securities which were being pledged by AATIPL belonged to its clients and the securities were either transferred in the pledgee a/c or transferred to own pledge a/c and when the securities were released, same were credited in the client beneficiary a/c of AATIPL. Therefore, in my view, AATIPL has failed to maintain segregation between own and clients' securities and mis-used the client's securities by pledging/transferring the same with the NBFCs/ACPL and thus, violated the provisions of Circular no. SMD/SED/CIR/93/23321 dated 18 Nov, 1993, SEBI/MRD/SE/Cir- 33/2003/27/08 dated Aug 27, 2003.

IV. **<u>Non-segregation and misutilization of clients funds</u>**

a. To assess the general financial position i.e. availability of funds in the client accounts as on March 31, 2017, the trial balance of AATIPL was obtained and summary of funds as noted from same is as follows:

Table 07: Summary of Funds

Sr. No.	**Particulars**	**As per trial dated 31/03/17 collected by NSE from AATIPL on 17/08/17 (Total) (In crores)**	**As per trial dated 31/03/17 collected by NSE from AATIPL on 17/08/17 (after excluding balances of employees**)**
1	Total receivables		
	- Receivable from clients	69.37	57.44
	- Other receivables	64.69	64.69
2	Total Payables		
	- Payable to clients (A)	77.1	41.82
	- Other payables	20.28	20.28
3	Total cash/bank Balance (B)	0.34	0.34
4	Funds with NSE along with clearing member (C)	6.45	6.45
5	Minimum deposit with exchange (D)	1.6	1.6
6	**Non-Availability funds [(A-(B+C-D)]**	**71.91**	**36.63**

***List of employees registered as clients: DK 21- Deepak Kumar, SK24-Sanjeet Kumar, RK36- Ranjit Kumar & MK11- Mukesh Kumar.*

b. I note from the above table, that there was shortage of funds across all bank accounts of AATIPL and the the funds that had been raised by pledging the clients' securities were not available in the bank accounts of Noticee No. 1 and also such funds had not been used for the purpose of meeting clients' obligations. Further, on verification of deposits available with exchange, clearing member and bank balances, I note that funds available with AATIPL were short by Rs. 71.91 Crores as against the amounts payable to clients as on March 31, 2017. Therefore, I found that the funds raised via pledging of client's securities were routed out of the system indicating non-segregation of client's funds from own and misutilization of client's funds.

c. I further note that AATIPL had a total outstanding funds position amounting to Rs. 51.63 crores by pledging client's securities and the said details were not appearing in the trial balance. Accordingly, on observing such glaring financial funds mis-match, an examination of AATIPLs and ACPLs bank statements was carried out to understand the utilization of funds. Based on details submitted by Mr. Sanjeeva Sinha on August 11, 2017, information was obtained from various banks pursuant to passing of interim order dated August 22, 2017, data received from NSE and information obtained during the visit to AATIPL's office on August 29, 2017, various bank accounts of AATIPL and ACPL were identified and their statements were obtained from the banks and extensive analysis was carried out. On the analysis of bank statements of AATIPL, it was observed that AATIPL had undertaken number of funds transfers worth several crores with various entities that were not its clients. Such transactions were observed to be of three type which are follows:

Table 8: Summary of net payment

S. No.	Transaction Type	Total Amount (Rs.)
a.	Transactions involving both receipts and payments with certain entities (Net Payment)	**(134,361,326.00)**
b.	Transactions involving receipt of funds from certain entities	**95,690,000.00**
c.	Transactions involving payment of funds to certain entities	**(338,193,627.00)**
	Total Payments	**(376,864,953.00)**

** It may be mentioned that since the bank statement analysis spans from April 2011 to the date of investigation, entities with whom net transfers of less than Rs. 10,00,000 have taken place have not been considered.*

d. I note that, the aforesaid fund transfers had mainly taken place from AATIPL's Axis own/ Business bank a/c and ICICI own/ Business bank a/c. However, due to lack of cooperation from AATIPL, the nature of transactions of the payments made to the third parties in many cases could not be ascertained due to limited access to third party bank statements and movements of funds involved multiple banks and through several layers. It has been found that the total money transferred from own/Business accounts of AATIPL & ACPL to third parties was Rs. 37.69 crores. Therefore, I found that the clients' money was routed/ diverted by AATIPL and ACPL to other entities.

e. On analysis of the bank accounts statements of AATIPL and ACPL reflected that large amounts of cash deposit and withdrawals had been made by AATIPL and ACPL during the investigation period. The summary of bank account wise cash withdrawal/deposit during the relevant period is as follows:

Table 9: Summary of Cash-Bank wise

Entity	Narration as per bank statements	Debit (Withdrawal)	Credit (Deposit)	Bank details
AATIPL	By Cash	858,000.00	1,863,300.00	Axis-909020031137920
AATIPL	Cash	900,000.00	153,800.00	BOB-19410200000531
AATIPL	Cash		13,393,400.00	HDFC-14422000000365
AATIPL	Cash		388,000.00	HDFC-14422000000372
AATIPL	Cash		1,683,000.00	ICICI-000705010268
AATIPL	Cash	12,105,789.00	28,263,300.00	ICICI-000705011161
AATIPL	Cash	5,542,089.00	5,659,000.00	ICICI-000705028003
AATIPL	Cash Self	21,515,150.00	7,275,500.00	Kotak-02082000001819
AATIPL	Cash		214,500.00	SBI-30329767246
AATIPL	Cash Self	181,845,000.00	30,474,000.00	Axis-909020031142977
ACPL	Cash Self	81,235,832.00	11,248,000.00	Axis-371010200008778
ACPL	Cash	525,000.00	605,000.00	Axis-910020010020531
ACPL	Cash		826,900.00	HDFC-14428190000044
ACPL	Cash		1,243,700.00	ICICI-000705026747
ACPL	Cash Self	6,563,000.00	3,059,000.00	Kotak-8111112414
	Total	**311,089,860.00**	**106,350,400.00**	

f. The summary of cash entity wise is as follows:

Table 10: Summary of Cash-Entity wise

Sl. No.	Entity name	Debit (Withdrawal)	Credit (Deposit)	Net withdrawal
1	From AATIPL Bank a/cs	222,766,028.00	89,391,800.00	-133,374,228.00
2	From ACPL Bank a/cs	88,323,832.00	16,958,600.00	-71,365,232.00
	Total	**311,089,860.00**	**106,350,400.00**	**-204,739,460.00**

g. The yearly cash summary of bank a/c of AATIPL and ACPL is as follows:

Table 11: Yearly cash summary bank a/c of AATIPL and ACPL

Sl. No.	Year	Debit (Withdrawal)	Credit (Deposit)	Net withdrawal
AATIPL				
1	2011	3,831,750.00	6,014,000.00	2,182,250.00
2	2012	5,352,000.00	15,163,400.00	9,811,400.00
3	2013	11,534,289.00	25,648,200.00	14,113,911.00
4	2014	56,245,258.00	23,334,500.00	-32,910,758.00
5	2015	58,880,000.00	14,150,200.00	-44,729,800.00
6	2016	80,562,831.00	4,861,500.00	-75,701,331.00
7	2017	6,359,900.00	220,000.00	-6,139,900.00
Total		**222,766,028.00**	**89,391,800.00**	**-133,374,228.00**
ACPL				
1	2011	**525,000.00**	1,577,000.00	1,052,000.00
2	2012	145,000.00	2,537,000.00	2,392,000.00
3	2013	2,128,000.00	78,700.00	-2,049,300.00
4	2014	4,435,000.00	4,805,000.00	370,000.00
5	2015	29,100,000.00	6,530,900.00	-22,569,100.00
6	2016	50,429,832.00	1,420,000.00	-49,009,832.00
7	2017	1,561,000.00	10,000.00	-1,551,000.00
Total		**88,323,832.00**	**16,958,600.00**	**-71,365,232.00**

h. From the above table 9, 10 and 11, I note that the cash withdrawals were mainly made from the own/Business bank accounts of AATIPL and ACPL and the net amount withdrawn by the AATIPL and ACPL, since April 2011 onwards was Rs. 20.47 crores, while major amount of withdrawal happened during the period from 2014 till 2016 i.e. when AATIPL was misusing client's securities by way of pledging and also by selling clients' securities through its employee's accounts (*refer findings in above paras*). Further, based on the submissions/ statements made by the directors of AATIPLs namely, Mr. Sanjeev Sinha, Mr. Narayan Jee Thakur and Mr. Sujeet Kumar Sona, the purpose of making such withdrawal was to make interest payment to the clients.

i. I further note from the analysis of bank statements that certain payments to some of AATIPL's clients were observed and same appears to be in the nature of interest payments, since fixed amounts were being paid to the clients on a regular basis (*mainly monthly*). Such payments were mainly being done from Axis Own/Business bank account no. 909020031142977 and ICICI Own/Business bank a/c no. 000705028003 of AATIPL and Axis bank account no. 371010200008778 of ACPL. It is pertinent to note that the clients to whom such regular fixed payments were being done from ACPL bank account no. 371010200008778 were not registered as clients of ACPL but were clients of AATIPL. I have noted names of 10 such clients in the aforesaid bank accounts and details of same is as follows:

Table 12: Interest clients list

Sl. No.	Entity Name	Debit	Credit	Net	Bank a/c from which payments were made
1	Altaf Shaikh	3,201,245.00	NIL	(3,201,245.00)	Axis bank a/c no.- 909020031142977
2	Amit Arora	4,180,282.00	NIL	(4,081,282.00	ICICI Bank a/c no.- 000705028003
3	Anil Kumar	5,27,993.00	NIL	(5,27,993.00)	ICICI Bank a/c no.- 000705028003
4	Bharti Katyal	17,43,322.00	NIL	(50,08,822.00)	Axis bank a/c no.- 909020031142977
		32,65,500.00			ICICI Bank a/c no.- 000705028003
5	GaganJee Mishra	8,17,000.00	NIL	(10, 01,000.00)	Axis bank a/c no.- 909020031142977
		1,84,000.00			Axis bank a/c no.- 371010200008778
6	GaganJee Mishra HUF	33,000.00	NIL	(77,000.00)	Axis bank a/c no.- 909020031142977
		44,000.00			Axis bank a/c no.- 371010200008778
7	Kanchan Mishra	8,64,500.00	NIL	(1,075,500.00)	Axis bank a/c no.- 909020031142977
		2,11,000.00			Axis bank a/c no.- 371010200008778
8	GeetaTripathi	197,913.00	NIL	(197,913.00)	ICICI Bank a/c no.- 000705028003
9	Pooja Arora	4,68,000.00	NIL	(4,68,000.00)	ICICI Bank a/c no.- 000705028003
10	Prerna	9,89,500.00	NIL	(9,89,500.00)	Axis bank a/c no.- 909020031142977

j. Apart from the above payments, the trade data of these clients was also analysed, which shows that none of the below mentioned entities had done trading during the relevant period. Therefore, I am of the opinion that the payment made to following entities were in the nature of fixed interest payments and Noticees No.1 and 2 were running fixed return scheme for some of its clients and were making interest payments on regular basis. I further note from the statement of Mr. Narayan, Noticee No. 6 dated October 17, 2017, wherein he admitted that "*Interest payments were being made to most of the clients of AATIPL. This interest payment was being made in cash and was against the shares / funds of the clients kept with the company.*

The frequency of these payments was monthly / quarterly basis. … … … Such cash was made available through withdrawal from business a/c of the company (Axis, HDFC, ICICI).” Also, for illustration purpose, I found an amount of Rs 24, 800/- being paid on monthly basis to one of the client of AATIPL Mr. Altaf Sheikh from the AATIPL Axis bank a/c 909020031142977. In view of the above, I find that the Noticees No. 1 and 2 being stock broker were not performing their duties in accordance with the conditions of a certificate of registration and in accordance with the regulations made under SEBI Act and thus, Noticees No. 1 and 2 have violated the provisions of Sections 12(1) and (1A) of the SEBI Act. Further, by engaging themselves in business of providing fixed interest payments to their clients, they have violated the provisions of Rule 8(3)(f) of SCR Rules, wherein, a stock broker is not allowed to engage in any business involving personal financial liability, apart from securities/ commodities market dealings.

k. I further note that on analysis of various bank statements of AATIPL and ACPL, it has been found that AATIPL and ACPL had transferred net amount of Rs. 32.62 crores during the period of investigation to their related entities and directors. The details of such transactions are as follows:

Table 13: Related party transfer

Sl. No.	Entity names	Debit	Credit	Net Funds paid	Bank Details
1	AadyaFinsec Limited (PAN-AAHCA0895R)	2,990,000.00		(2,990,000.00)	AATIPL ICICI-000705028003
		7,470,000.00		(7,470,000.00)	AATIPL Axis-909020031142977
	Total (A)	**10,460,000.00**		**(10,460,000.00)**	
2	Aadya Commodities Private Limited	22,001,786.59	9,068,000.00	(12,933,786.59)	AATIPL Axis-909020031137920
		1,961,300.00		(1,961,300.00)	AATIPL HDFC-14422000000365
		2,067,000.00	199,000.00	(1,868,000.00)	AATIPL HDFC-14422000000372
			940,000.00	940,000.00	AATIPL ICICI-705010268
		81,553,000.00	1,003,642.66	(80,549,357.34)	AATIPL ICICI-000705028003
		13,945,100.00	7,594,700.00	(6,350,400.00)	AATIPL Kotak-02082000001819
		262,291,082.00	219,817,800.00	(42,473,282.00)	AATIPL Axis-909020031142977
	Total (B)	**383,819,268.59**	**238,623,142.66**	**(145,196,125.93)**	
3	Tri-Deep Leasing and Finance Ltd (PAN-AABCT9035G)	10,000,000.00	12,500,000.00	2,500,000.00	AATIPL Axis-909020031137920
			1,000.00	1,000.00	AATIPL DCB-04621600000514
		125,000.00		(125,000.00)	AATIPL ICICI-000705011161
		87,600,000.00		(87,600,000.00)	AATIPL ICICI-000705028003
		955,500.00	3,250,000.00	2,294,500.00	AATIPL Kotak-02082000001819
		397,986,000.00	381,973,000.00	(16,013,000.00)	AATIPL Axis-909020031142977

Sl. No.	Entity names	Debit	Credit	Net Funds paid	Bank Details
			2,000,000.00	2,000,000.00	AATIPL Axis-371010200008778
	Total (C)	**496,666,500.00**	**399,724,000.00**	**(96,942,500.00)**	
4	Shubhshree Portfolios Private Limited (PAN-AAICS8132L)	1,300,000.00		(1,300,000.00)	AATIPL ICICI-000705028003
		1,500,000.00		(1,500,000.00)	AATIPL Axis-909020031142977
	Total (D)	**2,800,000.00**		**(2,800,000.00)**	
5	Sujeet Kumar Sona	272,771.20		(272,771.20)	AATIPL ICICI-000705011161
		673,000.00		(673,000.00)	AATIPL Kotak-02082000001819
		142,500.00	49,150.00	(93,350.00)	AATIPL Kotak-8111112414
		311,875.00		(311,875.00)	AATIPL Axis-909020031142977
	Total (E)	**1,400,146.20**	**49,150.00**	**(1,350,996.20)**	
6	Vandana Sinha	4,300,000.00		(4,300,000.00)	AATIPL Axis-909020031137920
		6,800,000.00	2,315,000.00	(4,485,000.00)	AATIPL ICICI-705010268
		1,900,000.00	-	(1,900,000.00)	AATIPL ICICI-000705011161
		4,375,000.00	6,900,000.00	2,525,000.00	AATIPL ICICI-000705028003
		850,000.00		(850,000.00)	AATIPL Axis-371010200008778
		200,000.00		(200,000.00)	AATIPL HDFC-14428190000044
		2,383,546.12		(2,383,546.12)	AATIPL ICICI-000705026747
		1,500,000.00		(1,500,000.00)	AATIPL Kotak-02082000001819
		21,050,000.00		(21,050,000.00)	AATIPL Axis-909020031142977
	Total (F)	**43,358,546.12**	**9,215,000.00**	**(34,143,546.12)**	
7	Sanjeeva Kumar Sinha	7,506,221.91		(7,506,221.91)	AATIPL Axis-909020031137920
		4,460,228.00	150,000.00	(4,310,228.00)	AATIPL HDFC-14422000000365
		120,000.00		(120,000.00)	AATIPL HDFC-14422000000372
		14,015,000.00		(14,015,000.00)	AATIPL ICICI-705010268
		8,563,754.00		(8,563,754.00)	AATIPL ICICI-000705011161
		12,483,012.00	4,450,000.00	(8,033,012.00)	AATIPL ICICI-000705028003
		5,970,000.00		(5,970,000.00)	AATIPL Axis-909020031142977
	Total (G)	**53,118,215.91**	**4,600,000.00**	**(48,518,215.91)**	
8	Sanjeeva Kumar Sinha & Sons (HUF) (PAN-AATHS0938J)	1,750,000.00	600,000.00	(1,150,000.00)	AATIPL ICICI-705010268
		300,000.00		(300,000.00)	AATIPL ICICI-000705011161
			4,000,000.00	4,000,000.00	AATIPL ICICI-000705028003
	Total (H)	**2,050,000.00**	**4,600,000.00**	**2,550,000.00**	
9	First Milestone Infrastructure Pvt.Ltd. (PAN-AABCF7418F)		4,850,000.00	4,850,000.00	AATIPL Kotak-02082000001819
		5,200,000.00		(5,200,000.00)	AATIPL Axis-909020031142977
	Total (I)	**5,200,000.00**	**4,850,000.00**	**(350,000.00)**	
	Net (A+B+C+D+E+F+G+H+I)	**998,872,676.82**	**661,661,292.66**	**(337,211,384.16)**	

l. I note that, the details of associate/ group companies of AATIPL and ACPL is as follows:

Table 14: Associate/Group Companies

Sr. No.	Entity names	Entity Details
1	Tri-Deep Leasing and Finance Ltd.	**CIN-**U65910DL1990PLC040141 **Address-** 13 Vaishali,2nd Floor Pitampura New Delhi – 110088 **Directors-** Mr. Sanjeeva Sinha (20/07/2017-till date) Ms. Vandana Sinha (03/04/12- till date) Mr. Amit Kumar (31/05/12- 06/08/2015)
2	Shubhshree Portfolios Private Limited	**CIN**-U67190DL2005PTC133028 **Address-** 13 Vaishali, 2nd Floor Pitampura New Delhi -110088 **Directors-** Ms. Amita Sinha (13/12/06-till date) Ms. Vandana Sinha (15/02/05 till date)
3	Aadya Finsec Pvt. Ltd.	**CIN**-U65990DL2008PLC179144 **Address-** 13 Vaishali, Pitampura New Delhi -110088. **Directors-**Ms. Amita Sinha (05/05/08-till date) Ms. Vandana Sinha (05/05/08-till date) Mr. Sanjeeva Sinha (05/05/08-till date)
4.	First Milestone Infrastructures Private Limited	**CIN**-U45400DL2011PTC214425 **Address-** LB-15, B, Ansal Bhawan, KG Marg Connaught Place, Delhi - 110001 **Directors-** Mr. Mrityunjay Kumar (20/02/2013-till date) Mr. Rishab Roy (12/09/2012-till date) Ms. Vandana Sinha (12/09/2012-15/12/2017)

m. From the above table 14, I found that the entities mentioned in table 13 are either related parties or directors of Noticees No. 1 and 2. I note that, during investigation period Tri-Deep Leasing and Finance Ltd, a company having directors of AATIPL and ACPL in its board had received net amount of Rs 9.69 crores; Shubhshree Portfolios Private Limited, a company having directors of ACPL in its board had received net amount of Rs 28 lakhs; First Milestone Infrastructure Pvt.Ltd., a company having director of ACPL in its board had received net amount of Rs 3.5 lakhs; and Sanjeeva Kumar Sinha & Sons (HUF), an HUF of director of AATIPL and ACPL had received net amount of Rs 25.50 lakhs, from Noticees No. 1 and 2. Further, the directors of AATIPL and ACPL, respectively, i.e Mr. Sujeet Kumar Sona had received Rs 13.50 lakhs, Ms. Vanadana Sinha received Rs 3.41 crores and Mr. Sanjeeva Sinha received Rs 4.85 crores, from Noticees No. 1 and 2 during the relevant period. I further note that during the relevant period, Noticees No. 1 and 2 have transferred net funds amounting to Rs. 33.72 crores to its related entities.

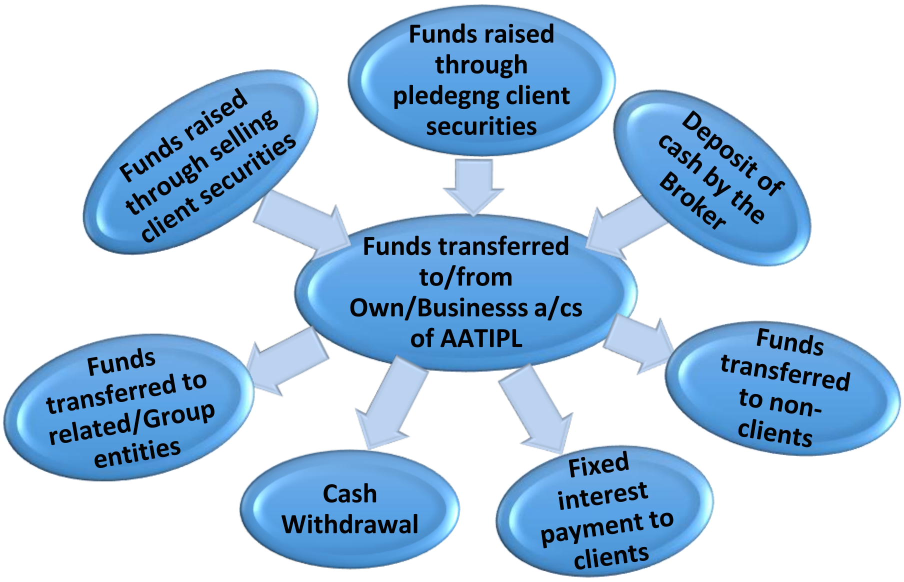
n. In view of the above, I am of the opinion that Noticees No. 1 and 2 have siphoned off the funds raised through pledging and selling of client's securities from employee's accounts *via* their directors and related parties in a fraudulent manner. By engaging in such fraudulent activities, Noticees No. 1 and 2 have violated the provisions of Sections 12A (a), (b) & (c) of the SEBI Act. I further found that Noticees No. 1 has moved securities and funds belonging to its clients into the accounts of ACPL, Noticee No. 2 and thus, Noticees No. 1 and 2 have violated the Clauses A(1), (4) and (5) of the Code of Conduct prescribed for the Stock brokers under Regulation 9 of the Stock Brokers Regulations.

o. I note that, since AATIPL and ACPL has failed to provide information sought through them *via* summons and reminders, information was sought from the respective stock exchanges and depositories, to ascertain the position of securities available with AATIPL. Depositories were advised to as provide the holding and valuation statements of all demat accounts held by AATIPL as on August 10, 2017 and NSE was advised to provide the value of securities as per the "*Register of Securities*" maintained by AATIPL. I further note that NSE has prohibited AATIPL from new client acquisition from August 10, 2017 onwards, accordingly, analysis of securities position has been carried out till aforesaid date only. It is noted that, client's securities amounting to Rs. 411.3 crores recorded in the back office books as on August 10, 2017 were not available in the beneficiary accounts of AATIPL or with the clearing member. Details of the aforesaid securities is as follows:

Table 15: Details of securities

Sr. No.	Particular	Value in Rs. Crores
1	Value of securities as per Register of Securities as on August 10, 2017 **(A)**	516.26
2	Value of securities as per client beneficiary **(B)**	93.12
3	Value of securities with Clearing member **(C)**	9.64
4	Value of securities with Globe Fincap Limited **(D)**	2.17
5	Difference **A- (B+C+D)**	**411.3**

p. In view of the above and discussion so far, I found that Noticees No. 1 and 2 have grossly mis-utilised the client securities by pledging and mis-utilised the funds which belongs to its clients. They have routed the securities belonging to its clients out of the system by pledging with NBFCs and by selling the same from its employees account. I found that AATIPL used to receive funds in its own business Axis Bank a/c raised by way of pledging and selling clients' securities. This was done by misusing the Power of Attorney received from its clients, to move the securities to its demat account from where the securities were pledged to raise funds. Further, AATIPL had also deposited huge cash during the investigation period (*refer table 9*). The aforesaid funds were then diverted outside the system by way of transfers to related group/entities, non-clients (*refer table 13*), Cash withdrawals (*refer table 9-11*) and paying fixed interest to the clients (*refer table 12*). The Modus operandi adopted by the Noticees No. 1 and 2 for siphoning of its clients' funds/ securities is depicted *via* following flow chart:



q. Considering the aforesaid facts and circumstance, I found that Noticees No. 1 and 2 have devised a scheme and artifice to defraud it clients, by siphoning of client's securities and funds to the tune of Rs 411.30 crores (approximately) using aforesaid modus operandi and thus, by engaging in such a fraudulent act, Noticees No. 1 and 2 have violated the provisions of the Regulations 3(a), (b), (c) and (d) of the PFUTP Regulations.

V. **Falsification of accounts:**

a. From the bank statements of AATIPL and ACPL, it is found that there were entries of receipt /payment of money from GFL indicating the receipt of money out of pledge from GFL. However, on examination of the books of AATIPL, it was observed that the receipt of funds by way of pledge was concealed in the trial balance and bank books submitted by AATIPL and ACPL, as no details of funds received from GFL by pledging clients' securities were found therein. Considering the above fact, I am of the opinion that AATIPL has fraudulently concealed the aforementioned fact of receipt of payment against the pledged shares of its clients in its records.

b. Further, on perusal of trial balance submitted by AATIPL to NSE, it is found that the trial balance was also falsified in respect of the entries relating to the debtors. As per trial balance as on March 31, 2017 submitted on April 19, 2017 by AATIPL, an amount of Rs. 16.80 crores were appearing towards debtors. However as per trial balance as on March 31, 2017 submitted on August 03, 2017 by AATIPL, an amount of Rs. 22.23 crores are appearing as debtors. Therefore, I note that, there is apparent difference of Rs 5.43 crores (approximately) w.r.t. debtors in trial balance and in my view the aforesaid difference is substantial and thus, in my opinion the trial balance details in respect of debtors have also *prima facie* been falsified.

c. Also, during the visit at AATIPL's office on August 10, 2017, bank statements of AATIPL's Axis Own/Business Bank a/c no. 909020031142977 was obtained. Later on when the aforesaid statement was compared with the details of transactions provided by the Axis bank, it has been found that details pertaining to transfers to certain entities have been falsified by AATIPL. AATIPL has concealed the cash withdrawal entries w.r.t. certain entities in aforesaid bank statement.

d. From the available records, I note that individual entries of credit in the range of Rs. 10 lakhs to Rs. 2.25 crores were concealed and the total amounts credited in the aforesaid accounts amounts to Rs 24.55 crores. Further, 62 entries of cash withdrawals appearing in AATIPL's Axis own / business account bank statement in the range of Rs.1 Lakh to Rs.9.90 Lakh has been concealed by AATIPL. I also note that no explanation in this regard from Noticees No. 1 and 2 is available on record. Considering the aforementioned facts and figures, I am of the view that Noticees No. 1 and 2 have falsified the trial balance and bank books and concealed the information related to pledging of securities, cash withdrawal and fund movements to related entities and thus, Noticees No. 1 and 2 by engaging in such a deceitful act have violated the provisions of Section 12(A) of the SEBI Act, Regulations 3 (a), (b), (c) & (d), 4(1) and 4(2) (p) of PFUTP Regulations and being stock broker violated provisions of Clause A(1), (4) and (5) of the Code of Conduct prescribed for the Stock brokers under Regulation 9 of Stock Brokers Regulations.

VI. **<u>Role of Aadya Commodities Pvt. Ltd., Noticee No. 2:</u>**

a. I note that, ACPL share same office address with AATIPL and Noticees No. 3 and 4 are common directors. Also, Mrs. Vandana Sinha, wife of Noticee No. 3 and Ms. Amita Sinha, sister of Noticee No. 3 are other two directors' in ACPL. As observed in above paras and from the discussion so far, I note that there were several instances of funds and securities movement were observed between AATIPL and its sister concern ACPL. Further, NSE during investigation informed that ACPL is registered as a client of AATIPL, however, no trading was carried out by it and BSE informed that ACPL is not registered as a client with any trading members of BSE. In view of aforesaid facts, I am of the opinion that securities which has been found in the demat a/c of ACPL did not belongs to it. Also, Globe Commodities Ltd. ("**GCL**"), who was clearing member of ACPL, informed that securities worth Rs 1.76 crores were lying with GCL as on October 24, 2017 and details of same are as follows:

Table 16: Summary of securities held with GCL

S. No	Scrip Name	Rate	Quantity	Value
1	Coal India Limited	289.85	501	145214.85
2	Dr Reddys Labs	2366.2	230	544226
3	Hero Motocorp Ltd	3791.25	50	189562.5
4	Hindustan Unilever L	1249.95	4000	4999800
5	ICICI Banking Co	262.55	1419	372558.45
6	Infosys Technologies	939.5	4500	4227750
7	Kotak Mahindra	1061.55	2025	2149638.75
8	Shree Cements	19247.2	75	1443540
9	Tata Steel Limited	712	5000	3560000
	Total			**17632290.55**

b. On examination of demat a/c **1205920000001019** of ACPL, it is found that on all instances shares in the said demat a/c were received from the demat accounts of AATIPL *via* off-market transactions. Further, on various occasions, on receiving the securities from AATIPL, ACPL used to immediately transferred the said securities to demat account of GCL and used to avail the margin facility. Details of the aforesaid transactions are as follows:

Table 17: Demat A/c 1205920000001019 extract

ISIN Desc.	Transaction Date	Particulars	Counter party Name	Debit/ Credit	Qty	Qty after Transaction
Coal India Limited - Equity Shares	02/12/2016	OF-CR TD:479087 TX:981290 1205920000000211	AATIPL	C	501	501
Coal India Limited - Equity Shares	06/12/2016	INTDEP-DR 53875880 CTRBO IN300966 10321370	GCL	D	501	0
Dr.Reddys Laboratories Ltd-Equity Shares Of Rs.5/- Each	10/08/2016	OF-CR TD:925389 TX:737102 1205920000000211	AATIPL	C	230	230
Dr.Reddys Laboratories Ltd-Equity Shares Of Rs.5/- Each	10/08/2016	INTDEP-DR 36981684 CTRBO IN300966 10321370	GCL	D	230	0
Hero Motocorp Limited - Equity Shares	02/12/2016	OF-CR TD:479088 TX:981292 1205920000000211	AATIPL	C	50	50
Hero Motocorp Limited - Equity Shares	06/12/2016	INTDEP-DR 53875883 CTRBO IN300966 10321370	GCL	D	50	0
Hindustan Unilever Limited Equity Shares Re. 1 Paid	24/12/2016	OF-CR TD:203308 TX:466436 1205920000000211	AATIPL	C	4000	4000
Hindustan Unilever Limited Equity Shares Re. 1 Paid	24/12/2016	INTDEP-DR 56275273 CTRBO IN300966 10321370	GCL	D	4000	0
Infosys Limited - Equity Shares Of Rs 5/- Each	21/11/2015	OF-CR TD:203300 TX:781094 1205920000001247	AATIPL	C	2000	2000
Infosys Limited - Equity Shares Of Rs 5/- Each	21/11/2015	INTDEP-DR 6777612 CTRBO IN300966 10321370	GCL	D	2000	0
Infosys Limited - Equity Shares Of Rs 5/- Each	02/08/2016	OF-CR TD:507715 TX:787989 1205920000000211	AATIPL	C	2500	2500
Infosys Limited - Equity Shares Of Rs 5/- Each	02/08/2016	INTDEP-DR 35685638 CTRBO IN300966 10321370	GCL	D	2500	0
Kotak Mahindra Bank Limited-New Equity Shares OfRs. 5/- After Sub-Division	02/12/2016	OF-CR TD:479090 TX:981296 1205920000000211	AATIPL	C	2025	2025
Kotak Mahindra Bank Limited-New Equity Shares OfRs. 5/- After Sub-Division	06/12/2016	INTDEP-DR 53875882 CTRBO IN300966 10321370	GCL	D	2025	0
Shree Cements Limited Equity Shares	02/12/2016	OF-CR TD:479091 TX:981298 1205920000000211	AATIPL	C	150	150
Shree Cements Limited Equity Shares	06/12/2016	INTDEP-DR 53875881 CTRBO IN300966 10321370	GCL	D	150	0
Shree Cements Limited Equity Shares	07/02/2017	INTDEP-CR 62566506 CTRBO IN300966 10321370	GCL	C	75	75

ISIN Desc.	Transaction Date	Particulars	Counter party Name	Debit/ Credit	Qty	Qty after Transaction
Shree Cements Limited Equity Shares	07/02/2017	OF-DR TD:261847 TX:657356 1205920000000211	AATIPL	D	75	0
Tata Steel Limited - Equity Shares	26/11/2015	OF-CR TD:545618 TX:568325 1205920000001247	AATIPL	C	5000	5000
Tata Steel Limited - Equity Shares	26/11/2015	INTDEP-DR 7148886 CTRBO IN300966 10321370	GCL	D	5000	0
ICICI Bank Limited # New EqSh With Fv Rs.2/- After Sub-Division	10/08/2016	OF-CR TD:925386 TX:737096 1205920000000211	AATIPL	C	1290	1290
ICICI Bank Limited # New EqSh With Fv Rs.2/- After Sub-Division	10/08/2016	INTDEP-DR 36981683 CTRBO IN300966 10321370	GCL	D	1290	0
ICICI Bank Limited Equity Shares	17/08/2013	OF-CR TD:686072 TX:472455 1205920000000211	AATIPL	C	100	100
ICIC Bank Limited Equity Shares	17/08/2013	INTDEP-DR 16901154 CTRBO IN300966 10321370	GCL	D	100	0
ICICI Bank Limited Equity Shares	09/10/2013	INTDEP-CR 21203541 CTRBO IN300966 10321370	AATIPL	C	100	100
ICICI Bank Limited Equity Shares	09/10/2013	OF-DR TD:199518 TX:735443 1205920000000211	GCL	D	100	0

c. Considering the above facts and circumstances, I have no second thought that ACPL was integral part of the fraudulent scheme devised by the AATIPL and the shares which were transferred by AATIPL to ACPL and subsequently to GCL in form of collateral to obtain margin facilities, in actual belongs to the clients of AATIPL. Therefore, by engaging in such acts, Noticee No. 2 has violated the provisions of SEBI Circular no. SMD/SED/CIR/93/23321 dated 18 Nov, 1993 read with SEBI/MRD/SE/Cir-33/2003/27/08 dated Aug 27, 2003 and Clause 15 of Rights and Obligations document for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular no. CIR/MIRSD/ 16/2011 dated August 22, 2011.

VII. **Failure to carry out running account settlement:** Being a stock broker, AATIPL was required to ensure periodical settlement of clients' funds/ securities on a monthly/ quarterly basis. However, from the available records it was observed that AATIPL have not done actual settlement of funds & securities in case of 2296 clients amounting to Rs 32.80 Crore for the period April 01, 2016 to March 31, 2017. Further, from the perusal of several complaints received against him, it has been observed that the clients' securities/funds have not been settled by AATIPL. I note that, total no. of 1975 complaints received against AATIPL and 17 against ACPL on SEBI Complaint Redressal System ("**SCORES**") pertains to non-receipt of funds and securities. In view of the same, I am of the opinion that AATIPL and ACPL have failed to carry out running account settlement during the relevant period and thus, have violated the provisions of the Clause 12 of SEBI Circular no. MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 33 of Rights and Obligations document for Stock Broker, Sub-Brokers and Clients as prescribed in Annexure 04 of the SEBI Circular no. CIR/MIRSD/ 16/2011 dated August 22, 2011.

VIII. **Non-redressal of investor grievance**:

a. The summary of the total complaints received against AATIPL and ACPL till March 15, 2018 is as follows:

Table 20: Complaints details

Entity	No. of Claims	Claim value (in crores)	Compliant Against
NSE	1850	167.39	AATIPL - Stock Broker
BSE	547	60.2	AATIPL - Stock Broker
CDSL	168	2.83	AATIPL -DP
MCX	361	4.56	ACPL -CD Broker
Total	**2926**	**234.98**	

b. I note that the aforementioned complaints received by Exchanges and Depositories pertains to non-receipt of the funds and securities by clients. Majority of the complaints were received between August 2017 till March 2018 and it is found that Noticees No. 1 and 2 have failed to settle the funds and/or securities of the clients. I further note that the aforementioned large number of complaints against Noticees No. 1 and 2 remain pending for substantial time and from the discussion so far, I found that Noticees No. 1 and 2 had failed to settle the funds and securities of its clients and thus, failed to resolve the investor grievances. Therefore, I found that Noticees No. 1 and 2 have violated the provisions of Circular no. CIR/MRD/ICC/ 30/2013 dated Sept 26, 2013 and Conditions of registration as specified under Regulations 9(e) of the Stock Brokers Regulations.

16. In terms of discussion on merits of the case in above para 15, I found that Noticees No. 1 and 2 were involved in gross misconduct and fraudulent act of siphoning off and mis-utilising the client's securities and funds during the investigation period. I note that, it is a well-established

fact that a company being a legal entity cannot act by itself. A company being a legal person having separate and independent existence than its shareholders acts through its board of directors who individually and collectively hold the position of trust and have fiduciary duties towards the company, the shareholders and other stakeholders. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. In terms of section 179 of the Companies Act, 2013, the Board of Directors of a company shall be entitled to exercise all such powers and do all such acts and things as the company is authorized to exercise and do. It is settled position that while alleging vicarious liabilities on the directors, the company should also be proceeded with for its defaults (*U.P. Pollution Control Board vs. Modi Distillary AIR 1998 SC 1128*). Thus, AATIPL and ACL cannot escape liability of its acts. Considering the above factum, it is clear that a company can act only through its directors who are expected to exercise their power on behalf of the company with utmost care, skill and diligence. Therefore, the Board of Directors, being responsible for the conduct of the own/Business of a company, is liable for any non-compliance of law and such liability shall be upon the individual directors also. Further, as per section 2(60) of the Companies Act, 2013, an "*officer who is in default*" for the purpose of making him liable for penalty or punishment, in case the company had committed a default includes – "*whole-time director, key managerial personnel and where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified.*" Accordingly, in terms of above, I now proceed to look into the role and responsibility of directors of AATIPL and ACPL during the relevant period of time. The summary of directorship of AATIPL and ACPL and their tenure is as follows:

Table 21: Directorship

S. No	**Entity Name**	**Tenure of the Directors**
A	**AmrapaliAadya Trading & Investment Pvt. Ltd.**	
Present Directors		
1	Mr. Sanjeeva Kumar Sinha	21/09/11 till date
2	Mr. Sujeet Kumar Sona	14/06/17till date
Past Directors		
1	Mr. Abnish Kumar Sudhanshu	21/12/13 - 24/01/17
2	Mr. Narayan Jee Thakur	12/06/10 - 30/04/17
3	Mr. Pawan Mishra	23/01/17 - 15/06/17
B	**Aadya Commodities Pvt. Ltd**	
Present Directors		
1	Ms. Amita Sinha	05/08/08 till date
2	Ms. Vandana Sinha	05/08/08 till date

3	Mr. Sanjeeva Kumar Sinha	01/08/17 till date
4	Mr. Sujeet Kumar Sona	24/07/17 till date

I. Mr. Sanjeeva Kumar Sinha (Noticee no. 3)

a. I note that Mr. Sanjeeva is Managing Director of AATIPL and ACPL. He is also a director in associated companies Tri-Deep Leasing and Finance Ltd., Shubhshree Portfolios Private Limited, Aadya Finsec Pvt. Ltd. and First Milestone Infrastructures Private Limited. The term "*managing director*" has been defined in section 2(26) of the Companies Act, 1956 and section 2(54) of the Companies Act, 2013 – as applicable at the relevant time -, as "*who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.*"

b. It is noted from the record that, Mr. Sanjeeva has sourced new clients by promising them assured/ fixed returns and such activities is found to be in contravention of the provisions of Stock Brokers Regulations. I further note that, during the investigation period, Mr. Sanjeeva had received net funds amounting to Rs. 4.85 crores (approximately) and he has failed to provide any justifications or reasons for executing such transfers. In view of the same, it can be assumed Mr. Sanjeeva had misused the clients' funds for own purposes. It has also been noted from the record that he had falsified the bank books and provided wrong data to NSE in order to conceal the pledging of client's securities and cash withdrawal. Being the Managing Director of AATIPL, Sanjeeva Sinha owed fiduciary duties of utmost good faith, scrupulous honesty, and loyalty towards the company. However, Mr. Sanjeeva failed to perform these duties, ensure compliance with the regulatory provisions and cooperate during investigation process. I further note that, in case of Managing Director, courts have held that he is, prima facie, deemed to be in charge and responsible for the conduct of business and management of the company and, therefore, liable for defaults {*Garda Chemical Pvt LTD V. R Parthasarthy, Asst. Collector Central Excise [1984] 2 ECC 384 [Bom]*}. Since, Mr. Sanjeeva has played key and active role in perpetrating the fraudulent act in this case, therefore, I found him liable for the acts of Noticees No. 1 and 2.

II. Mr. Sujeet Kumar Sona (Noticee No. 4)

a. I note that Mr. Sujeet was director of AATIPL and ACPL since June 14, 2017, wherein, the investigation period in this case is upto March 31, 2017. While noting so, I am also aware of the fact that he has joined AATIPL as Administrative Head in September 2010, therefore, his association with AATIPL was since 2010. Further, from his statement, it is clear that he was aware of the interest provided to clients', fixed returns to clients and dealings of AATIPL and ACPL in cash.

b. Mr. Sujeet in his submissions stated that he had not attended any AGM and he had not signed any of the company documents and he is also not a shareholder in the company. He is appointed director after conduct of the default, therefore, he has no involvement in any fraud. In this regard, I note that though the period of investigation was upto March 31, 2017, however, fraud in AATIPL and ACPL was still continuing during his directorship and he was aware of the same, as fraud has come to the notice during the inspection of NSE in August 2017. I further note from Table 13 that he had received Rs. 13.50 lakhs (approx.) from the bank accounts of AATIPL over a period of 3 years (09.04.2011 – 01.11.2014). However, the said payments are scattered in a time frame of 3 years, wherein, the largest payment involves amount of Rs. 2 lakhs, therefore, in my view these payments appear to be payment made to him as employee benefits. I also note that there is nothing in record which may so his direct involvement. Considering the aforesaid facts and circumstances, I found him liable for the acts of the Noticees No. 1 and 2. While stating so, factor of being made director at fag end of the fraudulent period may be a mitigating factor while imposing penalty upon him.

III. Mr. Pawan Mishra (Noticee No. 5)

a. I note that Mr. Pawan was director of AATIPL, Noticee No. 1 from January 23, 2017 to June 15, 2017. However, he was working for AATIPL and ACPL as a franchisee coordinator *cum* accountant since 2011. Mr. Pawan responsibility was to look after the pay-in and pay-out obligation of all the branch offices of AATIPL. Further, he was well aware about the shortage of funds in AATIPL as the payment of Brokerage/ commission to Franchisee began to be delayed since April 2017. Although Mr. Pawan Mishra was director in AATIPL for a period of 05 months, his association with the broker was since 2011. Further, this fact cannot be ignored that he was aware about pledging of securities from clients beneficiary account and cash withdrawals.

b. Mr. Pawan in his submissions stated that he was appointed Additional Director of AATIPL forcefully, however, he had never participated in any meeting related to alleged misdeeds and non-compliances. He realized foul play in the Company and therefore, he started protesting from month of March- April, 2017. In this regard, I note that Mr. Pawan has failed to provide any supporting documents regarding his claim of protest against the foul play or fraudulent acts of AATIPL and ACPL during his tenure. Further, Mr. Pawan is shown as "Designated Director" as per the details of its directors submitted by AATIPL to NSE on May 23, 2017. Also, as per his statement dated September 14, 2017 made to SEBI, he has admitted that he was well aware of the pledging of client' securities as well as cash withdrawals by AATIPL. Therefore, it can fairly assume that he was well aware of the fraudulent activities going on in AATIPL during the relevant time and thus, he failed to perform his fiduciary duties casted upon him through statute. Considering the aforesaid facts and circumstances, his directorship in the AATIPL and his association with AATIPL and ACPL since 2011, I held him liable for the acts of Noticees No. 1 and 2. While stating so, factor of being made director at fag end of the fraudulent period and for short period of less than 5 months may be a mitigating factor while imposing penalty upon him.

IV. Mr. Narayan Jee Thakur (Noticee No. 6)

a. I note that, Mr. Narayan was director in AATIPL from June, 2010 to April, 2017 i.e. during entire investigation period. He was associated with AATIPL since 2003 and as per the statements of employees, he was looking after the finance of AATIPL and holding the key positions in AATIPL. Further, during his statement recording he admitted that he was aware about cash withdrawals and fixed interest being paid by AATIPL to the clients.

b. Mr. Narayan in his submissions stated that he was appointed as director of AATIPL forcefully and he has accepted to become director to save his employment. He was working in AATIPL as clerk and never received benefits of a director. Further, he was not authorized to sign any documents except balance sheet which was mandatory as per the ROC provisions. He resigned from the Company in December, 2015 by serving

2 months' notice. In this regard, I note that Mr. Narayan has failed to produce any document, which can substantiate that he has forwarded resignation letter in December, 2015. Further, as per the statement of other employees of AATIPL he was handling the finance portfolio in AATIPL. His association in AATIPL since 2003 and till 2017 cannot be assumed to be a forcefully driven association just only to save his employment. He has remained a "*Designated Director*" for a period of 7 years and in my opinion same cannot be a forceful association by any means, instead he has played an integral role in perpetrating fraud in this case. It is also an important fact that Mr. Narayan has signed the balance sheet of AATIPL during the relevant period, while he was well aware of the siphoning off activity ongoing in AATIPL.

c. Mr. Narayan has contended that SCN issued is vague as details relating to the role played by him in alleged violations of regulatory provisions when he was holding position of director in the Company. In this regard, I would again like to bring attention towards the opening para 16 of this order, wherein, I had clearly specified role of a director in a company and what fiducial duty has been casted upon him and how he is vicarious liable for the act of the company. In this case, it has been found that Mr. Narayan was the Designated Director during the entire investigation period and he was well aware of the fraudulent activities going in AATIPL, despite that he has not raised any alarm, instead he was signing the crucial financial documents such as Balance Sheet of AATIPL. Further, SCN has clearly spelt out the same position in the SCN, therefore, I reject such contention of Mr. Narayan.

d. In view of the above stated facts and circumstances and position of designated director – finance in AATIPL held by Mr. Narayan during entire relevant period, I have no doubt that he was aware of the fraudulent activities ongoing in AATIPL and therefore, I held him liable for the fraudulent act of AATIPL in this case.

V. <u>Mr. Abnish Kumar Sudhanshu (Noticee No. 7):</u>

a. I note that Mr. Abnish was director in AATIPL from December 21, 2013 to January 24, 2017. However, he was associated with AATIPL since 2008 and became a "*Designated Director*" on December 21, 2013. It was alleged that being one of the designated directors, he failed to perform his duties in terms of ensuring compliance with the regulatory provisions and to look after the affairs of AATIPL, therefore, he is responsible towards act and the violations committed by AATIPL.

b. Mr. Abnish in his submissions stated that he was merely acting as a '*Director-Research*' and his job responsibilities as detailed herein above organizational chart had not even a remote connection with the account/ finance department of the AATIPL and with the operation of the banks and demat accounts of the AATIPL. It is also submitted that he did also not occupy the key position in the company such as a '*Managing Director*' or '*Whole-Time Director*' so as to raise the presumption of him being in charge of, and responsible to, the company for the conduct of its business. In this regard, I note that, Mr. Abnish was a "*Designated Director*" for 4 years in the AATIPL and resigned from AATIPL only at the fag end of the fraudulent period. I am of the opinion that, being a designated director in AATIPL, he cannot claim that he was not involved in the management of the company. Mr. Abnish has himself submitted that he is a well-known researcher in the securities market and used to provide his views on news channels. Considering the same, it can fairly be assumed that he is well verse with securities market and he is well aware of the fiduciary responsibilities casted upon a director and understood the implication of accepting the post of director.

c. I further note from the organizational chart mentioned by Mr. Abnish in his submissions that, he was directly reporting to Mr. Sanjeeva and his job responsibilities involved conducting/ preparing research reports, Representing AATIPL before media, daily tips to AATIPL's clients and co-ordination with the sales team. The aforesaid job-responsibilities mentioned w.r.t. Mr. Abnish requires him to be well versed with the activities going on in AATIPL. Further, his research and daily tips to AATIPL's clients and co-ordination with the sales team, shows that he was one of the important face in AATIPL to intact the current clients with the company and to bring the new investors on board. Further, he was representing AATIPL before media, which means he was one of the important face of AATIPL. Considering his designated directorship and his job responsibilities, in no way I can assume that he was not part of the management of AATIPL, instead, I found him an integral part of AATIPL, who was well aware of the aforesaid fraudulent activities going on in AATIPL. Therefore, I reject his contentions with regard to liability of director, as same has been established above. Considering the same, I found that his reliance upon the judgement of Hon'ble Supreme Court in the matters of *Pooja Ravinder Devidasini* v. *State of Maharastra & Anr. (supra)* and *National Small Industries Corpn. Ltd. v. Harmeet Singh Paintal (supra)* is not valid in this case, as his act of failure in adhering to his fiduciary duties as a designated director in AATIPL is apparent. Considering aforesaid facts and circumstances, I held Mr. Abnish, Noticee No. 7 liable for the fraudulent act of AATIPL in this case.

d. Mr. Abnish has also submitted that he had obtained a certificate from the AATIPL regarding his role and job responsibilities in the Company, which reads as - *"This is to certify that Mr. Abnish Kumar Sudhanshu (Director-Research) is not involved in any Trading/ DP and day to day financial activity of the company. He has been dealing with the equity research and has been confined in this area only. He bears a good moral character."* In this regard, I failed to understand at first place, why there was a requirement for Mr. Abnish to obtain such a certificate from AATIPL, as there is no such statutory obligation stated in the SEBI Act or Regulations. Further, it is surprising for me that, Mr. Abnish has obtained such certificate only once. If there was such mandatory requirement, then he should have obtained such certificate every year of his directorship instead of in 2015 only. Therefore, in my opinion obtaining such certificate on abrupt basis and that too only once without any statutory requirement, corroborate with the findings that he was well aware of the fraudulent activities going in AATIPL.

e. Mr. Abnish contended that he had resigned from directorship of AATIPL via e-mail on January 13, 2016 and sent a reminder in this regard on December 29, 2016, howver, same was officially recorded on January 24, 2017 only. In this regard, I found the claim of Mr. Abnish to be true, however, I also found that he barely followed up with AATIPL regarding acceptance of his resignation and he has send another e-mail after 11 months only. Also, even if it is assumed that, he has resigned from AATIPL on January 13, 2016, then also he was director of AATIPL for more than two years and he cannot escape the liability casted upon him on the basis of designated director of AATIPL for the said period of directorship. Therefore, I found such contention of the Noticee not tenable.

VI. <u>Ms. Amita Sinha (Noticee No. 8):</u>

a. I note that Ms. Amita Sinha is the director of ACPL i.e. since August 05, 2008. She is also the sister of Mr. Sanjeeva, Noticee No. 3. Apart from that, she was also director in associated and related companies of AATIPL i.e. Shubhshree Portfolios Private Limited ("**Shubhshree**") (since December 13, 2006) and Aadya Finsec Pvt. Ltd. ("**Aadya**") (since May 05, 2006). Aadya is holding 7.21% of shares in AATIPL and she together with Noticees No. 3 and 9 is director of Aadya. Shubhshree is holding 5.62% of shares in ACPL and she together with Noticee No. 9 is director of Shubhshree. It is observed that aforementioned related entities Shubhshree in which she is director has received Rs 28 lakhs from the accounts of AATIPL during the relevant period of time.

b. Ms. Amita in his submissions has stated that she has no technical or financial knowhow about how a company works and she was a dormant director in AATIPL, as she had accepted the directorship due to love and affection towards her elder brother. She has never drawn any salary from the post of director and further does not hold any significant shareholding in the Noticee No. 2 company and has further not received any dividend from the Noticee No. 2 either. She has never taken any part in the day-to-day affairs of Noticee No. 2 company and has never been involved in any decision making regarding the functioning and workings of the said company. She merely applied her signature on certain documents like balance sheet. In this regard, I note that, Ms. Amita was one of the "*Designated Director*" of ACPL since 2008 and remain director of ACPL during the entire investigation period. During these years she was admittedly signing the crucial documents i.e. balance sheet of ACPL. Not only that, she was also the directors in associated companies of AATIPL i.e. Shubhshree and Aadya. and the association of her in these companies belongs from year 2006 onward. Further, she is holding shares of AATIPL *via* related entity Aadya. Also, Shubhshree was the beneficiary related company, which has received Rs. 28 lakhs and Aadya has received Rs. 14.51 crores from AATIPL during investigation period and said amount is paid *via* siphoning off the funds of the clients of AATIPL. Considering the aforesaid facts and circumstances and association of Ms. Amrita with ACPL and AATIPL and its associated companies and her relationship with Mr. Sanjeeva, I found Ms. Amrita an integral part of ACPL and AATIPL and with such a close association, I am of the opinion that she is the part of such fraudulent act and scheme of AATIPL and ACPL and therefore, I hold her liable for the fraudulent act of ACPL in this case.

c. Ms. Amrita has contended that in parallel 11B proceedings on identical subject matter, the Hon'ble WTM has vacated his directions for barring her from securities for two years vide corrigendum order dated August 10, 2021 (*corrigendum to final order dated August 06, 2021*). She also stated that order of restraining her from engaging in the securities market for a period of two years owing to the fact vacated on the basis of that no evidence was found by SEBI w.r.t. her involvement in the matter remotely indicating that the she was ever involved in the management or decision-making of the concerned companies and that she had a minimal shareholding. In this regard, I would like to bring out the relevant extract of para 61 of final order of Ld. WTM dated August 06, 2021, which is as follows:

> *"….I note from the Confirmatory Order that* ***she was one of the 'Designated Directors' of ACPL*** *notified to SEBI and* ***used to sign on the statutory filings of ACPL****. In this regard, I note that from the* ***copy of ACPL's balance sheet for the period ended March 31, 2016 that Amita Sinha has signed the same****, along with Vandana Sinha, as one of directors of ACPL.* ***Considering the same, the Noticee's argument that she was not involved in the management of ACPL cannot be accepted****. I also note from records that* ***the Noticee is one of the directors of Shubhshree Portfolios Private Limited and Aadya Finsec Pvt. Ltd. which had received a net amount of Rs.28 Lakh and Rs.14.51 Crores respectively from AATIPL****,* ***which appears to be out of clients' funds misappropriated by AATIPL****. Considering all these factors,* ***I am of the opinion that the Noticee cannot escape the liability arising out of her directorship of ACPL during the relevant period.****"* ***(emphasis implied)***

d. In view of aforesaid noting's of Ld. WTM in parallel 11B proceedings, it is abundantly clear that, Ld. WTM has held her liable for the act of ACPL and as per him same is arising from the vicarious liability of being a director of ACPL during relevant period, when ACPL was involved in gross fraudulent activity. Further, I am of the opinion that minimal shareholding of Ms. Amrita in the company cannot absolve her from the liability casted upon her by statute for being a designated director in ACPL. Therefore, I find that the assumptions of Ms. Amrita on the basis of aforesaid corrigendum order dated August 10, 2021 is erred one and as findings against her stated in para 61 of final order are still in place, which hold her liable for the act of ACPL. Therefore, I found such contentions of Ms. Amrita unfounded and thus, reject the same.

VII. **<u>Ms. Vandana Sinha (Noticee No. 9):</u>**

a. I note that Ms. Vandana Sinha is the founding director of ACPL i.e. since August 05, 2008. She is also the wife of Mr. Sanjeeva, Noticee No. 3. Apart from that, she was also director in associated and related companies of AATIPL i.e. Tri-Deep Leasing and Finance Ltd. ("**Tri-Deep**") (since April 03, 2012), Shubhshree (since February 15, 2005), Aadya (since May 05, 2006) and First Milestone Infrastructures Private Limited ("**First Milestone**") (during 12/09/2012 - 15/12/2017). She is holding 36.84% shareholding in AATIPL and 52.81% shareholding in ACPL. She is also holding shares in AATIPL and ACPL *via* associated/ related companies Tri-Deep, Shubhshree and Aadya, respectively. It is observed that aforementioned related entities Shubhshree in which she is director has received Rs 28 lakhs, Tri-Deep has received Rs 9.69 crores (approx.) and First Milestone has received Rs 3.5 lakhs, respectively from the accounts of AATIPL during the relevant period of time. She herself has received Rs 3.41 crores (approx.) from the accounts of AATIPL during the relevant period of time.

b. Ms. Vandana Sinha in her submissions stated that she was sleeping/ dormant director in ACPL and as she had accepted the directorship due to love and affection towards her husband. She never entered into any fund transaction and she has been made director by her husband to fulfill the legal requirement of minimum number of directors. She never attended any meeting and / or represented ACPL at any forum in her entire life. She may only have signed the documents given to her by her husband regarding some company. In this regard, I note that Ms. Vandana was one of the "*Designated Director*" of ACPL since 2008 and remain director of ACPL during the entire investigation period. During these years she was admittedly signing the crucial documents i.e. balance sheet of ACPL. Not only that, she was also the directors in associated companies of AATIPL i.e. Tri-Deep, Shubhshree, First Milestone and Aadya and the association of her in these companies starts from year 2006 onwards. Further, she is holding substantial shares of AATIPL and ACPL directly, as well as indirectly *via* aforesaid associated/ related entities. Also, the associated / related entities were the beneficiary related company, wherein, Tri-Deep has received Rs 9.69 crores (approx.), First Milestone has received Rs 3.5 lakhs, Shubhshree has received Rs. 28 lakhs and Aadya received Rs. 14.51 crores from AATIPL during investigation period. Further, she herself has received Rs 3.41 crores (approx.) and said amount is paid *via* siphoning off the funds of the clients of AATIPL. Considering the aforesaid facts and circumstances and association of Ms. Vandana with ACPL and AATIPL and its associated companies and her relationship with Mr. Sanjeeva, I found Ms. Vandana an integral part of ACPL and AATIPL and with such a close association, I am of the opinion that she is the part of such fraudulent act and scheme of AATIPL and ACPL and therefore, I hold her liable for the fraudulent act of ACPL in this case.

c. She has contended that it is mentioned in the SCN that she had received net sum of Rs. 34.366 crores from AATIPL & ACPL, however, she had not received any such amount. Further, table 15 of the SCN specifically mentioned that she has received Rs. 3,41,43,546.12 from AATIPL. Therefore, the said amount is false and there is serious mis-calculation. In this regard, I note that amount received by Ms. Vandana from AATIPL and ACPL during the investigation period is Rs. 3,41,43,546.12 and same can be verified from Annexure 11 of the SCN provided to her along with the SCN and said annexure same contains the relevant details of bank entries.

d. She further contended that the present matter is hidden in a reference from NSE dated August 10, 2017, however, same documents is not provided along with the SCN. Thus, she cannot be held liable based on a document, which has not been provided to her. In this regard, I note that, all the relied upon and relevant documents has been provided to her in form of Annexure 1 to 17 of the SCN, which contains the recorded statements of directors and employees, reply of Axis bank, ECL and Globe Fincap w.r.t. pledge, trial balance as on 31.03.2017, bank statements of AATIPL & ACPL received from various banks, extract of bank statements indicating cash withdrawal and deposit, extract of bank statements indicating interest payments to clients, extract of bank statements indicating transfer to related party, computation of shortage of client securities, extract of bank statements indicating entries of Globe Fincap, bank book submitted by AATIPL, SCORES Complaints received against AAATIPL & ACPL, Communication Order and provisions of laws relied upon in the SCN. These are the documents on the basis of which allegations has been established and action has been recommended against the AATIPL, ACPL and their respective directors. Considering the above, I reject contention of Ms. Vanadana in this regard.

e. Ms. Vandana has contended that GFL has lend Rs 18.19 crores against the stock value pledge of Rs 2.23 crore and in no way same can be considered as genuine transaction. As per her same is a miscalculation and therefore, SCN is unsustainable. In this regard, I note that, the aforesaid data has been provided by GFL itself and same has been supplied to AATIPL, ACPL and other Noticees as Annexure 4 to the SCN. In absence of any response from AATIPL and ACPL, there is nothing before me on the basis of which the aforesaid data or facts can be disputed. Therefore, only on the basis of bald statement without any supporting documents of '*that the aforesaid lending is not rational*', the data obtained during investigation cannot be disputed or can be said as mis-calculation. Considering the same, I found the contentions of Ms. Vandana not tenable and thus, reject it hereby.

f. Ms. Vandana has further contended that in Table No. 7 containing "*Summary of Fund*" obtained from Trial Balance, "*Receivables*" has been ignored while considering shortage in payable fund of Rs 71.91 crores. If receivable has been considered, the payable funds can easily be paid and the noticees can be exonerated with surplus of Rs 70 crores. In this regard, I note that, being a stock broker, every stock broker has to maintain separate a/c for securities and funds for each of its clients and funds and securities of one client cannot be used/ adjusted for settling funds and securities of other client. The aforesaid practice is prohibited for a stock broker in securities market. As per Table 7, "*Receivables*" has been categorized as – a. Receivables from clients; and b. other receivables. While Non-availability of funds has been calculated by adjusting total cash/ bank balance of AATIPL (B), Funds with NSE along with clearing member (C) and minimum deposit with exchange (D) by deducting the same from amount payables to clients (A), under the formula – [A – (B+C - D)]. Therefore, amount/ securities receivables from a particular client cannot be adjusted with the amount/ securities payable to another client. Considering the same, I found the aforesaid argument of Ms. Vandana is devoid of the merit and thus, I reject the same.

17. In terms of discussion in aforesaid para 16 of this order, I found the respective directors of AATIPL and ACPL liable for the act of the respective Noticee companies. I note that the directors of Noticees No. 1 and 2 have vehemently raised the issue of doctrine of vicarious liability. In this regard, I note that, the role and liability of Noticees No. 3 to 9 being directors

of AATIPL and ACPL has been discussed in detail in above para 16. From the same, it is found that Noticee No. 3 is Managing Director of AATIPL and ACPL, Noticee No. 6 was Designated Director - Finance of AATIPL during entire investigation period, Noticee No. 7 was Designated Director - Research of AATIPL during 3 years of investigation period, Noticees No. 8 and 9 are Designated Director of ACPL since 2008. Being Managing Director and Designated Director, these directors are the integral part of the management and it can be fairly assumed that they are well aware of the day to day functions and working of AATIPL and were involve in decision making. As Noticee No. 6 was Designated Director – Finance and his role involve handling of the Account and Finance Department, Back Office Department, Risk Management Department and KYC Department (*as per organizational charge furnished by Noticee No. 7*). Similarly, Noticee No. 7 being Designated Director - Research involves in conducting and preparing research report, providing daily tips to AATIPL's clients, coordinating with the sales team, representing AATIPL in Media, etc. Further, Noticee No. 4 is director of AATIPL and ACPL after post investigation period i.e. since July 24, 2017. Also, Noticee No. 5 was one of the Designated Director of AATIPL for 4 months. However, during the said time period fraudulent activity was still going on in AATIPL and ACPL. Apart from that, these directors have close association with AATIPL and ACPL from long time, such as, Noticee No. 4 was associated as Admin Head since 2010, Noticee No. 5 was associated as a franchisee coordinator *cum* accountant since 2011, Noticee No. 6 was associated since 2003, Noticee No. 7 was associated since 2008 and Noticees No. 8 and 9 are relatives of Managing Director and associated since 2008. Not only that, Noticees No. 8 and 9 are also directors in the associated/ related companies of the AATIPL. Considering their position in the AATIPL and ACPL, respectively; their position in associated/ related companies, their roles in AATIPL and ACPL and their association with AATIPL and ACPL, I found all of the directors Noticees i.e. Noticees No. 3 – 9 an integral part of AATIPL and ACPL management respectively and I have no doubt that they are not aware of the fraudulent activity going on in AATIPL since 2011. In fact, under such peculiar facts and circumstances discussed till now, I am of the opinion that these directors have failed to perform their fiduciary duties, due diligence, compliance with regulatory provisions, etc. and therefore, they are liable for the fraudulent act and non-compliance/ non-adherence to the SEBI Act, Stock Broker Regulations, SCR Rules and PFUTP Regulations by the respective companies Noticees No. 1 and 2.

18. In view of the above, I note that with regard to such liabilities of the directors, vide order No. WTM/GM/EFD/38/2017-18 dated August 03,2017, SEBI has taken following position with regard to vicarious liability of directors for the acts of the company -

"In this connection, I note that there are a number of judicial pronouncements on the liability of directors including K.K Ahuja vs. V.K Vora (2009) 10 SCC 48; National Small Industries … vs. Harmeet Singh Paintal (2010) 3 SCC 330 and S.M.S. Pharmaceuticals Ltd. vs. Neeta Bhalla and Anr (2005) 8 SCC 89 generally upholding the position that the liability of any director in a company is restricted to actions of omission or commission committed by the company which had taken place with the knowledge and consent, whether explicit or implied, of such director. The array of judicial pronouncements emphasise the need to examine the role and conduct of the directors before fixing the liability on them in respect of any violation committed by the company. I, therefore, am of the view that the broad principle that the liability of a director should flow out of knowledge and consent or connivance in the alleged act is apt to be applied in these situations, to test their liability."

19. I have also perused the judgement of Hon'ble Supreme Court/ Hon'ble High Court and other courts relied upon by the Noticees w.r.t. vicarious liability and I note that this case can easily be differentiated from relied upon cases, on the basis of role and responsibilities of managing directors and designated directors of AATIPL and ACPL brought out clearly in above paras and how they failed in exercising their responsibilities and duties, while holding directorship in Noticees No. 1 and 2. Considering the above discussion, facts and circumstances, I reject all the contentions of the Noticees No. 3 - 9 w.r.t. vicarious liabilities and specific roles in a company.

20. The Noticees have further placed reliance upon the judgement of Hon'ble Supreme Court in the matters of *Radheshyam Kejriwal (Supra)* and *P.S. Rajya (Supra)* with regard to the contention of '*standard of proof*' in these proceedings. In this regard, I note that the instant adjudication proceedings are of '*civil nature*' as same has been pronounced via the judgement of Hon'ble Supreme Court in the matter of *SEBI v Kishore R Ajmera (AIR 2016 SC 1079),* wherein, it held that – *"The test, in our considered view, is one of preponderance of probabilities so far <u>as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned</u>."* Therefore, the aforesaid judgements are not relevant with regard to instant proceedings. Further, the proof available before me in these proceedings are sufficient enough to establish the charge made out against AATIPL, ACPL and their respective directors during the relevant

period of time. I further note that, in terms of "*standard of proof*", Hon'ble Supreme Court in the matter of *SEBI v Kishore R Ajmera (Supra)* has held as follows:

"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion."

21. In terms of aforesaid judgement and facts of this case, I found that not only the direct proof but also the attendant circumstances indicate towards the failure in performing their duties and responsibilities by the respective directors of AATIPL and ACPL and thus, I found their contentions not tenable and reject the same.

22. It is also relevant to mention that the definition of '*fraud*' under Regulation 2(c) of the PFUTP Regulation is a civil fraud as against criminal fraud and the prohibitions under Regulation 3 and 4 and consequent enforcement actions under Chapter VIA of the SEBI Act are also civil in nature. Thus, intention (*mens rea*) and proof beyond reasonable doubt are not indispensable requirements and the correct test to establish the charge under aforesaid provisions of the SEBI Act and PFUTP Regulations is one of preponderance of probabilities. Hon'ble Supreme Court, in above referred *Kanhaiyalal Baldevbhai Patel*, case, has held as under:

"To attract the rigor of Regulations 3 and 4 of the 2003 Regulations, mens rea is not an indispensable requirement and the correct test is one of preponderance of probabilities. Merely because the operation of the aforesaid two provisions of the 2003 Regulations invite penal consequences on the defaulters, proof beyond reasonable doubt as held by this Court in Securities and Exchange Board of India Vs. Kishore R. Ajmera (supra) is not an indispensable requirement. The inferential conclusion from the proved and admitted facts, so long the same are reasonable and can be legitimately arrived at on a consideration of the totality of the materials, would be permissible and legally justified.

23. In view of the discussion so far in this order, I found that the Noticees No. 1 and 2 being registered stock broker in the secuties market were involved in gross misconduct and fraudulent

act, wherein, they have found indulged in non-submission of information sought through summons, non-segregation of clients' funds and securities, selling of client's securities from the employee's account, moving funds and securities to sister concern, transferring funds from business bank account of the Noticee No. 1 to its related/ group entities, mis-utilisation of client securities by pledging, indulging in activities other than stock broking such as withdrawal/ deposits of cash from various bank accounts and providing assured returns to clients/ investors, Non-disclosure of demat accounts to NSE, failing to carry out running account settlement, non-redressal of investor grievances, falsification of books of accounts, etc. In view of same, the Noticees No. 1 and 2 have violated various provisions of the SEBI Act, Securities Contracts (Regulations) Rules, 1957 (hereinafter referred as 'SCR Rules'), Rules and Regulations prescribed there under and Circulars issued by SEBI from time to time. Further, the respective directors of Noticees No. 1 and 2 are found to be vicariously liable for the act AATIPL and ACPL as they have failed to perform their fiducial duties, responsibilities and ensuring due-diligence and compliance by the respective company Noticees No. 1 and 2. Considering the same, I found that the respective Noticees No. 1 - 9 have violated the provisions of the SEBI Act, SCR Rules, Stock Brokers Regulations, PFUTP Regulations and SEBI Circulars as specified in Table 1 of the order, and therefore, I hold Noticees No. 1 – 9 liable for penalty as under:

Noticees	**Violations**	**Action Under Relevant Act**
Noticees No. 1 and 2	SEBI Act, SCR Rules, Stock Brokers Regulations, PFUTP Regulations and SEBI Circulars (*refer Table 1*)	a. Sections 15A(a), 15C, 15HA and 15HB of the SEBI Act, 1992. b. Sections 23D and 23H of SCRA, 1956.
Noticees No. 3 to 9	SEBI Act, SCR Rules, Stock Brokers Regulations, PFUTP Regulations and SEBI Circulars (*refer Table 1*)	a. Sections 15HA and 15HB of the SEBI Act, 1992. b. Sections 23H of SCRA, 1956.

24. The said provision of aforesaid sections of SEBI Act and SCRA reads as under: -

<u>SEBI Act</u>

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made thereunder, —*

(a). *to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;*

Penalty for failure to redress investors' grievances.

15C. *If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*

Penalty for fraudulent and unfair trade practices.

15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

<u>SCRA</u>

Penalty for failure to segregate securities or moneys of client or clients.

23D. *If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Penalty for contravention where no separate penalty has been provided.

23H. *Whoever fails to comply with any provision of this Act, the rules or articles or bye- laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

25. For the purpose of adjudication of quantum of penalty, it is relevant to mention that under section 15I of the SEBI Act and 23I of the SCRA, imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that "*he may impose such penalty*" are of considerable significance, especially in view of the guidelines provided by the legislature in section 15J of the SEBI Act and Section 23J of the SCRA. The factors stipulated in Section 15J of the SEBI Act and Section 23J of the SCRA reads as follows: -

15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investor/+s as a result of the default;

(c) the repetitive nature of the default.

Explanation. —For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section;

26. Having regard to the factors listed in Section 15J of the SEBI Act and Section 23J of the SCRA and the guiding principles laid down by the Hon'ble Supreme Court in the matter of *SEBI v/s Bhavesh Pabari (CIVIL APPEAL NO(S).11311 OF 2013)*, it is noted from the material available on record, that Noticees No. 1 and 2 have sold securities worth Rs. 130.85 crores of AATIPL clients during the period from 01-Apr-16 to 10-Aug-17. Further, Noticees No. 1 and 2 have routed and diverted AATIPL's client money to the tune of Rs 37.69 crores *via* third parties. Also, client's securities amounting to Rs. 411.3 crores recorded in the back office books of AATIPL has been found short and clients' securities have been routed out of the system by AATIPL by pledging with NBFCs and by selling the same from its employees account. In view of the same, I note that, the clients of AATIPl has suffered huge losses due to the fraudulent act of Noticees No. 1 and 2 and due to the mis-appropriation of clients funds and securities and siphoning off of the client's funds and securities. Same is also evident from large number of complaints received in this regard. Further, Noticees No. 1 and 2 have hampered the investigation process by not sharing the desired information and documents sought from them *via* summons and reminders to summons.

27. Further, with regard to respective directors of AATIPL and ACPL roles, responsibilities and duties, it is incumbent upon SEBI to take stern view with regard to the market abuse and fraudulent practices, particularly when persons tasked with protecting the interest of the company and its stakeholders are themselves involved in perpetrating fraud. Noticee No. 3 to 9 being the managing directors and designated directors, respectively of AATIPL and ACPL and being the part of management of AATIPL and ACPL are also responsible for fraudulent and unfair practices undertaken by AATIPL and ACPL in this case. In my considered opinion the deliberate defiance and indulgence in fraudulent activity by the persons - who being in charge of affairs of AATIPL and ACPL, holding fiduciary duties towards stakeholders - should be dealt with sternly and the penalty in such cases should serve as effective deterrence. The failure on the part of the respective directors of AATIPL and ACPL is apparent and in the facts and circumstances of this case, I deem it worth relying the observations of Hon'ble Supreme Court in its judgment dated April 26, 2013 in the matter of *N. Narayanan v. SEBI*, wherein it specifically cautioned SEBI in the following words – "*SEBI, the market regulator, has to deal sternly with companies and their Directors indulging in manipulative and deceptive devices…… SEBI has, therefore, a duty to protect investors, individual and collective, against opportunistic behavior of Directors and Insiders of the listed companies so as to safeguard market's integrity….. Fraud, deceit, artificiality, SEBI should ensure, have no place in the securities market of this country and 'market security' is our motto.*"

28. It is also to be kept in mind that the misappropriation of the clients' funds and securities is a heinous act, and thus, same need to be dealt sternly and suitably penalized. While holding so, I am also aware of the mitigating factors in terms of tenure, role and responsibilities, relationships, association with the associated/ related companies, etc. of the respective directors of the AATIPL and ACPL. I also have perused the contents and the directions passed by the Ld. WTM in the parallel 11B proceedings *vide* final order dated August 06, 2021 and corrigendum to final order dated August 10, 2021, and from same I note that, Ld. WTM has inclined to take lenient view in respect of only two Noticees directors i.e. Noticees No. 4 and 5. With respect to other directors, Ld. WTM has hold them liable for the act of AATIPL and ACPL, respectively. While, holding so, I wish to make it clear that both proceedings are two different set of proceedings.

29. I further note that, it is of utmost importance that every registered intermediary shall maintain the required level of knowledge and competency and abide by the provisions of the Act, Rules, Regulations and circulars and directions issued by SEBI. In this regard, any omission on part

of the registered intermediary is detrimental to the interest of investors in securities market. I am of considered view as detailed above, that the Noticees have violated various provisions of SEBI Act, SCRA, Rules and Regulation made and various circulars issued thereunder and that it is a fit case for imposition of penalty for violation of the aforesaid Acts, Regulations and SEBI Circulars, it would be necessary to impose appropriate penalty to commensurate the gravity of violation committed by the Noticees to meet the ends of justice.

30. In terms of the principle prescribed under section 15J of the SEBI Act and 23 J of the SCRA, factors striking a balance between the gravity of default and mitigating factors as aforesaid, and exercising the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules and Section 23I of the SCRA read with Rule 5 of the SCRA Adjudication Rules, I hereby impose, following monetary penalty upon Noticees No. 1 - 9 under the SEBI Act and the SCRA. In my view, the said penalty commensurate with the violation committed by these Noticees in this case:

<table>
<tr><th>Noticee No.</th><th>Noticee Name</th><th>Penalty Amount</th></tr>
<tr><td>1</td><td>AmrapaliAadya Trading & Investment Pvt. Ltd. (AAECA3909P)</td><td>Rs. 25,00,000/- (Rupees Twenty-Five Lakhs Only) under Section 15A(a) of the SEBI Act.

Rs. 1,00,00,000/- (Rupees One Crore Only) under Section 15C of the SEBI Act.

Rs. 1,00,00,000/- (Rupees One Crore Only) under Section 23D of the SCRA.</td></tr>
<tr><td>2</td><td>Aadya Commodities Pvt. Ltd. (PAN: AAHCA2094C)</td><td>Rs. 25,00,000/- (Rupees Twenty-Five Lakhs Only) under Section 15A(a) of the SEBI Act.

Rs. 1,00,00,000/- (Rupees One Crore Only) under Section 15C of the SEBI Act.</td></tr>
<tr><td>1</td><td>AmrapaliAadya Trading & Investment Pvt. Ltd.</td><td rowspan="5"><u>Upon Noticees No. 1, 2, 3, 8 and 9</u>
Rs. 25,00,00,000/- (Rupees Twenty-Five Crores Only) under Section 15HA and 15HB of the SEBI Act and under Section 23H of the SCRA – Jointly and Severally.</td></tr>
<tr><td>2</td><td>Aadya Commodities Pvt. Ltd.</td></tr>
<tr><td>3</td><td>Mr. Sanjeeva Kumar Sinha</td></tr>
<tr><td>8</td><td>Ms. Amita Sinha</td></tr>
<tr><td>9</td><td>Ms. Vandana Sinha</td></tr>
</table>

Noticee No.	Noticee Name	Penalty Amount
4	Mr. Sujeet Kumar Sona	Rs. 7,00,000/- (Rupees Seven Lakhs Only) under Section 15HA and 15HB of the SEBI Act and under Section 23H of the SCRA.
5	Mr. Pawan Mishra	Rs. 7,00,000/- (Rupees Seven Lakhs Only) under Section 15HA and 15HB of the SEBI Act and under Section 23H of the SCRA.
6	Mr. Narayan Jee Thakur	Rs. 25,00,000/- (Rupees Twenty-Five Lakhs Only) under Section 15HA and 15HB of the SEBI Act and under Section 23H of the SCRA.
7	Mr. Abnish Kumar Sudhanshu	Rs. 15,00,000/- (Rupees Fifteen Lakhs Only) under Section 15HA and 15HB of the SEBI Act and under Section 23H of the SCRA.

31. The Noticees shall remit / pay the said total amount of penalty within 45 days of receipt of this order by way online payment on SEBI website at following tabs on SEBI website www.sebi.gov.in – ENFORCEMENT -> Orders ->Orders of AO -> Pay Online or by way of using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html.In case you face any difficulties in payment of penalties, you may contact the support at portalhelp@sebi.gov.in .

32. The said confirmation of e-payment made in the format as given in table below should be sent to "*The Division Chief, EFD 1- DRA-III, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, BandraKurla Complex, Bandra (E), Mumbai - 400 051*" and also to e-mail id:- tad@sebi.gov.in

1	Case Name	
2	Name of the 'Payer/Noticee'	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Details in which payment is made	
7	Payment is made for(like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	

33. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

34. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticees and also to SEBI.

Date: April 28, 2022	**Vijayant Kumar Verma**
Place: Mumbai	**Adjudicating Officer**