BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SM/DD/2022-23/16009]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND UNDER SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of
M/s. S.B. Securities Pvt. Ltd.
(SEBI Registration Number: INZ000221834)

In the matter of M/s. S.B. Securities Pvt. Ltd.

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) and BSE Ltd. (hereinafter referred to as '**BSE**') conducted a comprehensive joint inspection of M/s. S.B. Securities Pvt. Ltd. (hereinafter referred to as **'Stock Broker / Noticee/You/Broker'**) from March 26, 2019 to March 27, 2019 and on April 23, 2019. The said inspection was carried out at 379, Priti Building, S V Road, Vile Parle (west), Mumbai – 400 056 w.r.t. its Stock Broking activities((hereinafter referred to as **'SBs'**). The period covered in the inspection was from April 2017 to September 2018 (hereinafter referred to as '**Inspection Period**').

2. Noticee is a SEBI-registered Stock Broker, having SEBI registration number as INZ000001834. Noticee is a Stock Broker of BSE.

3. Based on the findings of inspection and the reply of Noticee, SEBI initiated adjudication proceedings against Noticee under:
    a) **Section 23D of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "SCRA")**, for the alleged violations of Section 23D of SCRA read with SEBI Circular SMD/SED/CIR/93/23321 dated November 18, 1993(herein after referred to as "Transactions Regulation Circular") and Clauses 2.4,3.3.1 of Annexure to SEBI Circular SEBI/HO/MIRSD /MIRSD2/CIR/P/2016/95 dated

September 26, 2016 (herein after referred to as "Enhanced Supervision Circular") and Enhanced Supervision Circular ;

b) **Section 15A(b) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act"),** for the alleged violations of Enhanced Supervision Circular read with Exchange/BSE Notice no. 20160927-41 dated September 27, 2016;

c) **Section 15HB of SEBI Act,** for the alleged violations of Clause 2.6 of Annexure to Enhanced Supervision Circular read with Clause 2(d) of SEBI Circular ref. no. CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/64 dated June 22, 2017, Clauses 3 and 4 of SEBI Circular ref. no. CIR/MIRSD/16/2011 dated August 22, 2011, Clause 3 of SEBI Circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018 and Clause 12 of SEBI Circular SEBI/MIRSD/Cir-19/2009 dated December 03, 2009 & Clause 8.1 of Annexure to Enhanced Supervision Circular.

4. Vide order dated December16, 2019, Ms. Sangeeta Rathod was appointed as Adjudicating Officer (hereinafter referred to as '**AO**') under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules 1995'**) and also under Section 23-I of the SCRA read with Rule 3 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as '**SCRA Adjudication Rules 2005**'), (both rules collectively being referred as "**Adjudication Rules**") to inquire into and adjudge under the provisions of Section 15A(b) of SEBI Act, Section 15HB of SEBI Act and Section 23D of the SCRA, the aforesaid alleged violations committed by Noticee. Subsequent to transfer of Ms. Sangeeta Rathod, Shri Prasanta Mahapatra was appointed as the AO in the matter. Thereafter, the undersigned was appointed as the AO in the matter by SEBI vide order dated December 04, 2020.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice (hereinafter being referred to as the "**SCN**") dated July 23,2021 and Supplementary Show Cause Notice(herein after referred to as "**Supplementary SCN**") dated January 28, 2022 was issued to Noticee in terms Rule 4(1) of Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticee and why penalty, if any, should not be imposed upon Noticee under Section 23D of SCRA, Section 15A(b) of SEBI Act and Section 15HB of SEBI Act, for the aforesaid violations alleged to have been committed by Noticee.

6. The SCN was sent to Noticee through Speed Post AD(“**SPAD**”) and through digitally signed email dated July 26, 2021 and was duly served upon Noticee. Noticee was given fifteen (15) days’ time to submit the reply of SCN. In the interest of natural justice, an opportunity of personal hearing was granted to Noticee on September 24, 2021 vide hearing notice dated September 06, 2021. The said hearing notice was sent to Noticee through SPAD and through email dated September 06, 2021 and was duly served upon Noticee.

7. Vide email dated September 21, 2021, Noticee requested for adjournment of hearing citing reasons of Covid-19 and requested to keep the hearing in the third week of October 2021. Considering the request received from Noticee, another opportunity of hearing was granted to Noticee on October 21, 2021. However, vide email dated October 20, 2021, Noticee requested another adjournment and requested to keep the hearing on November 22, 2021 or any other date. The request of Noticee was once again acceded to and vide email dated October 21, 2021, another opportunity of hearing was granted to Noticee on November 12, 2021. Vide said email i.e. October 12, 2021, Noticee was also directed to submit the reply of SCN on or before the scheduled date of hearing. On November 11, 2021, Noticee submitted the reply to the SCN. On the scheduled date of hearing, Mr. KRCV Seshachalam, Authorized Representative (“**AR”**) of Noticee attended the hearing and reiterated the contents of the reply made by Noticee vide letter dated November 11, 2021. Due to ongoing covid pandemic, the aforesaid hearing was carried out through webex platform. During the hearing, AR requested for additional time to submit further reply. Accordingly, Noticee was granted time till November 22, 2021, to file additional reply. Noticee submitted additional reply on November 22, 2021.

8. Subsequently, a Supplementary SCN was issued to the Noticee through SPAD on January 28, 2022 and was duly served upon the Noticee. Vide email dated February 11, 2022, Noticee through its AR sought an extension of two weeks for submitting the additional reply in respect of the Supplementary SCN. The request made by Noticee was acceded to and vide email dated March 08, 2022, Noticee was granted time till March 14, 2022 to submit additional reply, if any. Vide email dated March 22, 2022, Noticee submitted reply to the Supplementary SCN. In its reply, Noticee had not specified whether it desire a personal hearing in the matter. Accordingly, vide email dated March 28, 2022, Noticee was requested to inform whether it required a personal hearing in the matter, latest by March 28, 2022. However, no response was received from Noticee. Therefore, I note that sufficient opportunity has been given to Noticee to represent itself and the principles of natural justice have been complied with.

9. The allegations levelled against Noticee, the submissions and findings in respect of the same are dealt with in the subsequent paragraphs of this order. The general submission made by Noticee vide its letter dated November 11,2021, November 22,2021 and email dated March 22, 2022, are reproduced as under:-

Letter dated November 11, 2021

I. *At the outset, the Noticee No. 1 (hereinafter referred as "Noticee") denies all the allegations contained in the SCN and states that nothing shall be construed as an admission for want of specific traverse. The Noticee also reserves his right to file any additional reply to the captioned SCN, if any need arises. The Noticee submit as follows:*

a. *The Noticee submits that it is a small broking firms and mostly trades through Bombay Stock Exchange (BSE). Further, more than 90% of the Noticee's business is generated through the relatives and associates and it does not have many clients. Therefore, the Noticee states that no loss has been caused to any of its clients.*

b. *The Noticee submits that most of its clients are related/ connected to the directors of the Noticee. For the sake of brevity, following clients are related to the Noticee:*

Name of client	*Relation*
Nalini Shnatichand Jhaveri	*Shareholder.*
Haresh S Jhaveri	*Shareholder and Director.*
Darshana Haresh Jhaveri	*Wife of the director.*
Haresh S Jhaveri HUF	*Directors are the kartas of HUF.*
Kunal Haresh Jhaveri	*Son of the Director*
Karan Haresh Jhaveri	*Son of the Director*
Rima Kunal Jhaveri	*Shareholder and Daughter in law of the director.*
Riya Karan Jhaveri	*Shareholder and Daughter in law of the director.*
H S Trading	*Partnership firm in which Haresh Jhaveri and Nalini Jhaveri is partner.*
D H Securities Private Limited	Associate Entity. Shareholders are members of Jhaveri Family.

c. *The Noticee states that the captioned Show Cause Notice (SCN) alleges that the Noticee has violated Securities and Exchange Board of India Act, 1992 and the rules and regulations framed therein. There are set allegations are into six parts, which are as follows:*

i. Segregation of clients and owned funds and securities.
ii. Settlement of running account.
iii. Pledging of securities by the broker.
iv. Investor Grievance handling mechanism.
v. Know Your Client (KYC), Account Opening Process, Power of Attorney (POA) & Anti Money Laundering related compliance.
vi. Safeguarding of client funds/ securities with stock broker)

d. Prayer

i. In view of the foregoing submissions, it is submitted that, Noticee has not violated the provisions of SEBI Act, 1992 read with Section 23D of the Securities Contract Regulation Act, 1956 (SCRA) and circular framed under the SEBI Act, 1992.
ii. The allegation in the SCN do not flow out of the factual position and are based on mere surmises and conjectures therefore cannot be legally sustained and therefore, it is humbly prayed that the SCN be discharged against Noticees and no penalty/ directions as proposed to be issued against them.

Letter dated November 22, 2021

a. We are thankful for the personal hearings given to us on November 12, 2021.
b. During the course of the hearing, we have been permitted to file Written Submission in the captioned matter. Accordingly, we are setting out below in brief the submissions made before you. We submit that, the following submissions are in continuation and addition to the submissions made by the Noticee during the hearing and reply dated November 12, 2021before the Ld. Whole Time Member (WTM).
c. At the outset, the Noticee submitted that the Noticee is an extremely small legacy braking firm operating on BSE and does not have many other clients other than the family members and relatives of the promoters of the Noticee. The daily turnover of the Member on BSE during the relevant time was around Rs.30.00 lakh.
d. Further, the Noticee submitted that, though there have been certain minor discrepancies and transgressions found during the inspection, the Noticee submitted that these discrepancies are not as grave as portrayed in the captioned SCN. The violations are minor, trivial and non-material found during a routine inspection and do not invite any penalty as alleged in the Show Cause Notice.

e. It was submitted that, the captioned Show Cause Notice flows from a routine inspection conducted by SEBI.

f. In light of what is stated above, the Noticee submits that though there are certain discrepancies and transgressions in implementing the circulars, the Noticee humbly requests that a lenient view may be taken and the Noticee be exonerated. This is the first time such allegations have been levied against the Noticee and the Noticee does not have any antecedents of violation of securities laws.

Email dated March 22, 2022:-

a. The Noticee No. 1 states that that the present reply shall be construed in addition to the Reply dated November 11, 2021; Submissions made during the hearing on November 12, 2021 and the Written Submissions dated November 22, 2021 filed in the proceedings under the Show Cause Notice dated July 23, 2021. Further, the Noticee states that nothing contained herein shall deemed to be admitted for want of specific traverse.

b. . At the outset, the Noticee states that it had filed its reply dated November 11, 2021 to the Show Cause Notice dated July 23, 2021. Thereafter, the Noticee appeared before the Ld. Adjudicating Officer on November 12, 2021 and filed the Written Submissions on November 22, 2021.

c. The Noticee states that, the captioned supplementary Show Cause Notice dated January 28, 2022 (Supplementary SCN) has been issued to amend the earlier SCN dated July 23, 202l(SCN). The Noticee states that, by virtue of the supplementary SCN, SEBI has modified the SCN and has now alleged that the present Noticee has violated Section 15A(b) of the SEBI Act, 1992.

d. At the outset, the Noticee denies violating Section 15A (b) of the SEBI Act, 1992. The Noticee states that it furnished all the information and documents sought by SEBI, within the timeline prescribed by them. Therefore, there arises no question of the present Noticee violating Section 15A(b) of the SEBI Act, 1992. There is no allegation in the main SCN that there was any delay on the part of the Noticee in submitting any information or reports to any authority.

e. The Noticee states that the captioned supplementary SCN has alleged that the Noticee has violated Section 15A(b) of the SEBI Act, 1992 without even providing any particulars of the documents/information sought by SEBI. Further, the supplementary SCN has failed to set out any instance when the present Noticee has either, refused or failed, to provide the any information.

f. Thus, the Noticee submits that the allegation that the present Noticee has violated Section 15A(b) is baseless, arbitrary and has no semblance of merit. The Ld. Adjudicating Officer has issued the captioned supplementary SCN without providing any rationale for non-inclusion of the same, in the prior SCN dated July 23, 2021.

g. The Noticee states that, upon filing of the Written Submissions dated November 22, 2021; the Noticee was under a bona fide impression that the Ld. Adjudicating Officer was satisfied with the submissions made by the present Noticee and therefore, had not passed any order. However, the present Noticee was completely shocked and surprised to rece1ve the captioned SCN, which in tum inserted further allegations against the present Noticee, without providing any rationale for the same. SEBI cannot allege violation of both Section 15A(b) & 15HB of the SEBI Act, 1992.

h. The Noticee submits that, the captioned supplementary SCN seeks to further allege that the present Noticee has violated Section 15A(b) for non- provision of the documents/information. However, SEBI has alleged that the present Noticee has violated Section 15HB of the SEBI Act, 1992, in the SCN dated July 23, 2021.

i. The Noticee submits that, the captioned supplementary SCN seeks to further allege that the present Noticee has violated Section 15A(b) for non- provision of the documents/information. However, SEBI has alleged that the present Noticee has violated Section 15HB of the SEBI Act, 1992, in the SCN dated July 23, 2021.

j. The Noticee submits that, the allegation in the SCN dated July 23, 2021, inter alia, pertains to violation of the Enhanced Supervision Circular dated September 26, 2018; Section 23D of the SCRA read with Transaction Regulation Circular dated November 18, 1993 and so on. However, there is not even a single averment that the present Noticee has failed to furnish any information or has furnished false, incorrect or incomplete information. Thus, the present Noticee submits that the allegation that the present Noticee has violated Section 15A(b) of the SEBI Act, 1992 is baseless, unsubstantiated and lacks merit.

k. Further, the Noticee submits that, SEBI 'has taken contrary stands in the captioned SCN and the SCN dated July 23, 2021. The Noticee states that, if it is SEBI's case that the present Noticee has violated Section 15A(b) of the SEBI Act, 1992; then no other provision of law, which is generic in nature like Section 15HB can be invoked against the Noticee.

l. The Noticee places its reliance upon the order dated September 19, 2003 passed by the Hon'ble Securities Appellate Tribunal in the matter of Gold Multi(ab Limited v. Chairman, SEBI [2003 SCC Online SAT 30]. The Hon'ble Tribunal has observed as follows:

"22 The scope of adjudication is thus confined to the charges leveled in the notice. The charges in the show cause notice, as stated earlier is based on the conclusion arrived at by the person who issued the show cause notice, based on the facts stated therein. Even though the Respondent No. 3 has referred to violation by the Appellants of the SEBI Guidelines and also the terms and conditions of the Prospectus, it is not clear as to which specific guideline/terms and conditions were violated. These sort of vague allegations are not to be sustained as the same does not provide an opportunity to the noticee to counter the charges..."

m. *The Noticee is also placing reliance upon the order passed by the Hon'ble Apex Court in Gorkha Security Services v. Governme11t (NCT of Delhi) & Ors [(2014) 9 SCC 105], wherein the Hon'ble Apex Court has observed as follows:*

> *"21. The Central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of Show Cause Notice is•to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/ breaches complained of are not satisfactorily explained"*

n. *In light of the abovementioned authorities, the Noticee submits that SEBI has failed to provide any rationale for amending the prior SCN and invoking further sections against the present Noticee. It is pertinent to mention that, the supplementary SCN has been issued much after the proceedings have stood concluded.*

Prayer

o. *In view of the foregoing submissions, it is submitted that, Noticee has not violated the provisions of 15A(b) and Section 15HB of the SEBI Act, 1992 read with Section 23D of the Securities Contract Regulation Act, 1956 (SCRA) and circulars framed under the SEBI Act, 1992.*

p. *The allegation in the SCN do not flow out of the factual position and are based on mere surmises and conjectures therefore cannot be legally sustained and therefore, it is humbly prayed that the SCN be discharged against Noticee and no penalty/ directions as proposed to be issued against them.*

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

10. I have carefully perused the charges levelled against Noticee in the SCN and the supplementary SCN and the material available on record. I have also perused the submissions made by Noticee in this regard. The issues that arise for consideration in the present case are:

    I. Whether Noticee has violated the provisions as mentioned in para 3 of the order?
    II. Do the violations, if any, attract monetary penalty under Section 23D of SCRA, Sections 15A(b) and 15HB of SEBI Act as specified in para 3 of the order?
    III. If the answer to issue no. II is in affirmative, then what should be the quantum of monetary penalty?

11. Before moving forward, it is pertinent to refer to the relevant provisions which are reproduced hereunder:

    a. ***Section 23 D of SCRA:*** *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*

    b. ***Transactions Regulation Circulars***

    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.

c. ***Clause 12 of Annexure A to SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009: -*** *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.*

d. Clauses 3 and 4 of SEBI Circular CIR/MIRSD/16/2011 dated August 22, 2011

Clause 3:- *SEBI has devised the uniform documentation to be followed by all the stock brokers / trading members; a copy thereof to be provided by them to the clients. The details of such documents are listed below:*

i. *Index of documents giving details of various documents for client account opening process - Annexure-1*

ii. *Client Account Opening Form in two parts:*

   a. *Know Your Client (KYC) form capturing the basic information about the client and instruction/check list to fill up the form - Annexure-2.*

b. Document capturing additional information about the client related to trading account -Annexure-3.

iii. 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)– Annexure–4

iv. Uniform Risk Disclosure Documents (for all segments / exchanges) Annexure-5.

v. Guidance Note detailing Do's and Don'ts for trading on exchanges.

Clause *4*:- In the account opening process, the stock brokers / trading members *would also give the following useful information to the clients:*

a. A tariff sheet specifying various charges, including brokerage, payable by the client to avoid any disputes at a later date.

b. Information on contact details of senior officials within the stock broking firm and investor grievance cell in the stock exchange, so that the client can approach them in case of any grievance.

e. ***Clause 2(d) of SEBI Circular CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/64 dated June 22, 2017:*** *Clause2.6 stands modified as, "Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in, except, in accordance with the margin trading facility provided vide SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 or as may be issued from time to time. "This clause would be effective from August 1, 2017.*

f. **Clause 3 of SEBI *Circular*- SEBI/HO/ MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018:-** To further strengthen regulatory provisions against un-authorized trades and also to harmonise the requirements across markets, it has now been decided that all brokers shall execute trades of clients only after keeping evidence of the client placing such order, which could be, inter alia, in the form of:

a. Physical record written & signed by client,

b. Telephone recording,

c. Email from authorized email id,

d. Log for internet transactions,

e. Record of messages through mobile phones,

f. Any other legally verifiable record.

When a dispute arises, the broker shall produce the above mentioned records for the disputed trades. However for exceptional cases such as technical failure etc. where broker fails to produce order placing evidences, the broker shall justify with reasons for the same and depending upon merit of the same, other appropriate evidences like post trade confirmation by client, receipt/payment of funds/securities by client in respect of disputed trade, etc. shall also be considered.

g. ***Enhanced Supervision Circular****:*

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 mis-utilisation 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. 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 actionon 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. ***……….***
3. ***……***

Annexure

1. ***Naming/Tagging of Bank and Demat Accounts by Stock Broker***

1.1. Bank accounts and Demat accounts maintained by all stock brokers shall have appropriate nomenclature to reflect the purpose for which those bank/demat accounts are being maintained.

1.2. The nomenclature for bank accounts and demat accounts to be followedis given as under:

1.2.1. Bank account(s) which hold clients funds shall be named as "Name of Stock Broker -Client Account".

1.2.2. Bank account(s) which hold own funds of the stock broker shall be named as "Name of Stock Broker -Proprietary Account".

1.2.3. Demat account(s)which hold clients' securities shall be named as "Name of Stock Broker-Client Account".

1.2.4. Demat account(s), which hold own securities of the stock broker, shall be named as "Name of Stock Broker-Proprietary Account".

1.2.5. Demat account(s), maintained by the stock broker for depositing securities collateral with the clearing corporation, shall be named as "Name of Stock Broker-Collateral Account".

2. ***Reporting of Bank and Demat accounts maintained by Stock Broker***

2.1. The stockbrokers shall inform the Stock Exchanges of existing and new bank account(s) in the following format:

Name and address of Bank	*Name of the Branch*	*Account Number*	*IFSC Code*	*Name of Account*	*Purpose of Account (Own/Client/ Settlement)*	*Date of Opening*

2.2. The stock brokers shall inform the Stock Exchanges of existing and new demat account(s) in the following format

Name of DP	*Account Number/DP*	*DPID*	*Name of Account holder*	*PAN*	*Sub-Type/tag of Demat Account(Proprietary/Client/ Pool/ Collateral)*	*Date of Opening*

2.3.** Stock Exchanges and/or Depositories, as the case may be, shall ensure the following**:

2.3.1.All existing demat accounts maintained by stock brokers are assigned the appropriate nomenclature as mentioned above, within three months from the date of this circular.

2.3.2.All existing bank accounts maintained by stock brokers which do not have the above mentioned nomenclature, shall be assigned appropriate nomenclature, within six months from the date of this circular.

2.3.3.Details of all existing bank and demat accounts shallbe communicated to Stock Exchanges by the stock brokers in the format specified above within one month from the date of this circular.

2.3.4.All new bank and demat accounts opened by the stock brokers shall be named as per the above given nomenclature and the details shall be communicated to the Stock Exchanges within one week of the opening of the account.

2.3.5.In case of closure of any of the reported bank and demat accounts, the same shall be communicated to the Stock Exchanges within one week of its closure.

2.3.6.Depositories shall ensure that once the nomenclature for a particular demat account has been assigned by the stock broker, then the same shall not be modified.

2.3.7.Any non-compliance/non-reporting in this regard by the stock broker shall attract penal action as per the provisions of Stock Exchanges.

2.3.8. Based on the list of stock brokers (including PANs) provided by the respective stock exchanges, Depositories shall also provide stock broker-wise details of all the demat accounts opened by a stock *broker to the concerned Stock Exchanges to facilitate reconciliation with the data submitted by the stock broker.*

2.4. *In line with the prevalent regulatory requirement, it is reiterated that:-*

2.4.1Stock Broker shall not use client funds and securities for proprietary purposes including settlement of proprietary obligations.

2.4.2.Transfer of funds between "Name of Stock Broker -Client Account" and "Name of Stock Broker -Settlement Account" and client's own bank accounts is permitted. Transfer of funds from "Name of Stock Broker -Client Account" to "Name of Stock Broker -Proprietary Account" is permitted only for legitimate purposes, such as, recovery of brokerage, statutory dues, funds shortfall of debit balance clients which has been met by the stock broker, etc. For such transfer of funds, stock broker shall maintain daily reconciliation statement clearly indicating the amount of funds transferred.

2.4.3.Transfer of securities between "Name of the Stock Broker -Client Account " and individual client's BO account, "Name of the Stock Broker –Pool Account" and "Name of the Stock Broker –Collateral Account" is permitted. Transfer of securities between "Name of the Stock Broker -Client Account" to "Name of the Stock Broker -Proprietary Account" is permitted only for legitimate purposes such as, implementation of any Government/Regulatory directions or orders, in case of erroneous transfers pertaining to client's securities, for meeting legitimate dues of the stock broker, etc. For such transfer of securities, stock broker shall maintain a stock transfer register clearly indicating the day-wise details of securities transferred.

2.4.4The Stock Exchanges shall monitor compliance with the above requirements, during inspections and the same shall be reviewed by the internal auditor of the broker during the half yearly internal audits

2.5. *As per existing norms, a stock broker is entitled to have a lien on client's securities to the extent of the client's indebtedness to the stock broker and the stock broker may pledge those securities. This pledge can occur only with the explicit authorization of the client and the stock broker needs to maintain records of such authorisation. Pledge of such securities is permitted, only if, the same is done through Depository system in* *compliance with Regulation 58 of the SEBI (Depositories and Participants) Regulations,1996. To strengthen the existing mechanism, the stock brokers shall ensure the following:*

2.5.1 Securities of only those clients can be pledged who have a debit balance in their ledger.

2.5.2 .Funds raised against such pledged securities for a client shall not exceed the debit balance in the ledger of that particular client.

2.5.3.Funds raised against such pledged securities shall be credited only to the bank account named as "Name of the Stock Broker -Client Account".

2.5.4.The securities to be pledged shall be pledged from BO account tagged as "Name of the Stock Broker -Client Account".

2.5.5 Stock Brokers shall send a statement reflecting the pledge and funding to the clients as and when their securities are pledged/unpledged as given below:

A	B	C	D					E	F	G	H
Date	Client code	Ledger debit at the end of trade day	Collateral of client available with broker								
			ISIN/ Security name	Previous days' closing price	Total Quantity	Total value(Total quantity*previous days closing price	Total Value (Adjusted for applicable haircut)	Pledged Quantity	Pledged value	Borrowing	Details of Pledge

**Ledger debit would be after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients*

2.6. Stock brokers shall not grant further exposure to the clients when debit balances arise out of client's failure to pay the required amount *and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in.*

2.7. The above requirements mentioned under paras 2.4 to 2.6 shall be applicable within three months from the date of this circular.

*3. **Monitoring of clients funds lying with the Stock Broker by the Stock Exchanges:***

3.1 Stock Exchanges shall put in place a mechanism for monitoring clients' funds lying with the stock broker to generate alerts on any misuse of clients' funds by stock brokers, as per the guidelines stipulated in para 3.2 & 3.3 below.

3.2 Stock brokers shall submit the following data as on last trading day of every week to the Stock Exchanges on or before the next trading day:

A -Aggregate of fund balances available in all Client Bank Accounts, including the Settlement Account, maintained bythe stock broker across stock exchanges

B -Aggregate value of collateral deposited with clearing corporations and/or clearing member (in cases where the trades are settled through clearing member) in form of Cash and Cash Equivalents (Fixed deposit (FD), Bank guarantee (BG), etc.)(across Stock Exchanges). Only funded portion of the BG, i. e. the amount deposited by stock broker with the bank to obtain the BG, shall be considered as part of B.

C - Aggregate value of Credit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients and uncleared cheques issued to clients and the margin obligations)

D- Aggregate value of Debit Balances of all clients as obtained from trial balance across Stock Exchanges (after adjusting for open bills of clients, uncleared cheques deposited by clients, uncleared cheques issues to clients and the margin obligations)

E-Aggregate value of proprietary non-cash collaterals i.e. securities which have been deposited with the clearing corporations and/or clearing member (across Stock Exchanges)

F-Aggregate value of Non-funded part of the BG across Stock Exchanges

P-Aggregate value of Proprietary Margin Obligation across Stock Exchanges

MC-Aggregate value of Margin utilized for positions of Credit Balance Clients across Stock Exchanges

MF-Aggregate value of Unutilized collateral lying with the clearing corporations and/or clearing member across Stock Exchanges

3.3 *Based on the aforesaid information submitted by the stock broker, Stock Exchanges shall put in place a mechanism for monitoring of clients' funds lying with the stock brokers on the principles enumerated below:*

3.3.1.Funds of credit balance clients used for settlement obligation of debit clients or for own purpose:

Principle: The total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member (A + B) should always be equal to or greater than Clients' funds as per ledger balance (C)Stock Exchanges shall calculate the difference i.e. G as follows –

G = (A+B)-C

If difference G is negative, then the total available fund is less than the ledger credit balance of clients. The value of G may indicate utilization of clients' funds for other purposes i.e. funds of credit balance clients are being utilized either for settlement obligations of debit balance clients or for the stock brokers' own purposes. The negative value of G acts as an alert to the Stock Exchanges.

Thereafter, the absolute value of G shall be compared with debit balance of all clients as per client ledger D as follows:

If the absolute value of (G) is lesser than |D|, then the stock broker has possibly utilised funds of credit balance clients towards settlement obligations of debit balance clients to the extent of value of G.

If the absolute value of (G) is greater than |D|, then the stock broker has possibly utilised a part of funds of credit balance clients towards settlement obligations of debit balance clients and remaining part for his own purposes. In such cases the amount of client funds used for own purpose is calculated as follows:

H= |G| -|D|

3.3.2. Funds of clients used for Margin obligation of proprietary trading:

Stock Exchanges shall thereafter, verify whether the proprietary margin obligations (across Stock Exchanges) is less than the own funds and securities lying with the Stock Exchanges as collateral deposit, as follows:
Principle:
The sum of Proprietary funds and securities i.e. (G + E + F) lying with the clearing corporation/clearing member should be greater than or equal to Proprietary margin obligations (P)
If value of G is positive (i.e. A+B > C), then proprietary funds are lying with the clearing corporation/clearing member and/or client bank accounts along with the clients funds to the extent of positive value of G.

The sum of the proprietary funds (positive value of G), the value of proprietary securities (E) and the non-funded portion of bank guarantee (F) available in the Stock Exchanges is compared with the Proprietary margin obligations (P).

If P > (G+E+F), then Stock Exchange shall calculate the difference I, which is the amount of proprietary margin obligation funded from clients assets. I = P - (G+E+F)

If G is negative, then, value of G is considered as 0, as there is no proprietary funds lying with the stock exchange.
The value of I indicates the extent of funds and securities of clients which is possibly utilised towards proprietary margin obligations. This value of I acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' assets towards proprietary margin obligations.3.3.3.Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading:

3.3.3. Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading:
Stock Exchanges shall thereafter, verify whether the clients funds lying with the clearing corporation/clearing member are utilized towards margin obligations of debit balance clients and proprietary margin obligations.
Principle: The clients' funds lying with the clearing corporation/clearing member should be less than or equal to sum of credit clients' margin

obligations (MC) and free collateral deposits available with the clearing corporation/clearing member (MF)

If value of G is negative (i.e. A+B < C), then fund lying with the clearing corporation/ clearing member (B) is entirely clients' fund. In such cases, B is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/ clearing member. The value of J is calculated as under:

J = B - (MC + MF)

If value of G is positive (i.e. A+B > C), then fund lying with the clearing corporation/clearing member (B) may contain proprietary and clients' fund. Hence, the value of clients funds lying with the clearing corporation/ clearing member i.e. (C-A)shall be considered in the place of B.

In such cases, (C-A)is compared with Margin obligations of credit balance clients and the free deposits available with the clearing corporation/clearing member. The value of J, which is clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations, is calculated as under:

J = (C -A) -(MC + MF)

The value of J, if positive, indicates the extent of clients' funds utilised towards margin obligations of debit balance clients and proprietary margin obligations. This value of J acts as an alert to the Stock Exchanges on the possible mis-utilisation of clients' funds towards margin obligations of debit balance clients and proprietary margin obligations.

3.4 Based on the alerts generated, Stock Exchange shall, inter-alia, seek clarifications, carry out inspections and initiate appropriate actions to protect the clients' funds from being misused. Stock Exchanges shall also maintain records of such clarifications sought and details of such inspections. The aforesaid calculations are illustrated in tabular format in Table 1, 2 & 3 given at the end of the annexure.

3.5 Stock Exchanges shall put in place the aforesaid monitoring mechanism within three months from the date of this circular and carry out the monitoring *of clients' funds for all stock brokers, except for those who are carrying out only proprietary trading and/or only trading for institutional clients.*

3.6 Stock Brokers shall ensure due compliance in submitting the information to the Exchanges within the stipulated time.

4. ***Internal Audit for Stock Broker**:-*

   ……………

5. ***Monitoring of Financial Strength of Stock Brokers:-***

   ………..

6. ***Standard Operating Procedures for Stock Brokers/Depository Participants -Actions to be contemplated by Stock Exchanges/Depositories for any event based discrepancies***

6.1 As per existing norms, Stock Exchanges/Depositories are required to monitor their members/depository participants. It has been decided that the Stock Exchanges and Depositories shall frame various event based monitoring criteria based on market dynamics and market intelligence. An illustrative list of such monitoring criteri as are given below:

6.1.1 Monitoring criteria for Stock Brokers

a. Failure to furnish Networth certificate to Stock Exchange within 60 days for half year ending September 30thand half year ending March 31st.

b. Failure to furnish Internal Audit report to Stock Exchangesfor half year ending September 30thby November 30thand half year ending March 31stby May 31st.

c. Failure to furnish Annual Audited Accounts by September 30thof the relevant year.

d. Failure to co-operate with the Stock Exchange for conducting inspection by not submitting all the information/records sought within 45 days from the due date specified in the letter of intimation.

e. Failure to submit data for the half yearly Risk Based Supervision within the time specified by Stock Exchange.

f. Failure to assign appropriate Bank and Demat nomenclature within the time specified and to report the same to the Stock Exchanges.

g. Failure to report new bank and demat accounts opened by the stock broker to exchanges within the time specified for reporting of such accounts.

h. Complaints pending for more than 30 days and total value of which is more than 50 per cent of the Networth of the Broker

i. If, at any point of time, Net worth of the Broker is negative or lower than 75 per cent of the requirement

j. In case stock broker shares incomplete/wrong data or fails to submit data on time.

k. Failure to submit financial statements as per timeline prescribed under Companies Act, 2013

6.1.2 ……..

6.1.3 ….

6.1.4 ….

*7. **Uploading clients' fund balance and securities balance by the Stock Brokers on Stock Exchange system***

The Stock Exchanges shall put in place a mechanism and ensure that stock brokers upload the following data on a monthly basis for every client onto each Stock Exchange system where the broker is a member

7.1.1.Exchange-wise end of day fund balance as per the client ledger, consolidated across all segments and also net funds payable or receivable by the broker to/from the client across all Exchanges.

7.1.2.End of day securities balances (as on last trading day of the month) consolidated ISIN wise (i.e., total number of ISINs and number of securities across all ISINs)

7.1.3.For every client, number of securities pledged, if any, and the funds raised from the pledging of such securities

7.1.4.The data at Para 7.1.1, 7.1.2 and 7.1.3 pertains to the last trading day of the month. The stock broker shall submit the aforesaid data within seven days of the last trading day of the month.

7.2.Each Stock Exchange shall in turn forward this information to clients via Email and/or SMS on the email IDs and mobile numbers uploaded by the stock broker to the Exchange for their clients.

7.3.The above provisions shall be applicable three months from the date of this circular.

8. ***Running Account Settlement***

8.1. *In* partial modification of circular on running account settlement, the stock broker shall ensure that;

8.1.1.There must be a gap of maximum 90/30 days (as per the choice of client viz. Quarterly/Monthly) between two running account settlements.

8.1.2.For the purpose of settlement of funds, the mode of transfer of funds shall be by way of electronic funds transfer viz., through National Electronic Funds Transfer (NEFT), Real Time Gross Settlement (RTGS), etc.

8.1.3.The required bank details for initiating electronic fund transfers shall be obtained from new clients and shall be updated for existing clients. Only in cases where electronic payment instructions have failed or have been rejected by the bank, then the stock broker may issue a physical payment instrument.

8.1.4.Statement of accounts containing an extract from client ledger for funds & securities along with a statement explaining the retention of funds/securities shall be sent within five days from the date when the account is considered to be settled.

8.2. The above provisions shall be applicable 3 months from the date of this circular.

9. ***Providing PAN Number***

…….

Table -1

RECONCILIATION – Funds of credit balance clients used for settlement obligation of debit balance clients or for own purpose:

Funds Available in client bank accounts and cash/cash equivalent deposits with clearing corporation/ clearing member -across all Stock Exchanges		Clients' Funds as per the client ledger- across all Stock Exchanges	Difference	Calculate only if G is negative		
Total of end of the day balance in all	Collateral deposited with clearing corporation/ clearing member in form of	Total Credit Balance of all clients (after adjusting for open bills		Total debit balance(after adjusting for	Amount of funds of one client used for another client	Amount of fund used for own purpose (only if absolute value G is greater than

Client Bank Accoun t s	Cash and Cash Equivalents*	and uncleared cheques)		openbills and unclearedc heques)		debit balance clients)
A	B	C	G=(A+B)-C	D	G, if |G|< |D|	H = |G| -|D|

** cash equivalents contains other components of collateral deposited by the stock broker, such as, FD, bank Guarantee etc excluding the Non-cash component. IfG is negative, then there is utilization of clients' funds for other purposes i.e. either funds of credit balance clients are being utilized for settlement obligations of debit balance clients or for the stock brokers' own purposes. The difference has following two components:*

Component I: Use of fund of one client for giving exposure to another client

Component II: Use of client fund for own purposes by stock broker

Amount of funds of one client used for settlement obligation another client = Total Debit balances of all Clients (after adjusting for open bills and uncleared cheques)

Misuse of client's fund for own purpose= Absolute value of G -Total Debit balances of all clients (after adjusting for open bills and uncleared cheques)

Table 2

RECONCILIATION -Funds of clients used for Margin obligation of proprietary trading:

G(if positive) -own money	Value of Own Securities Deposited as Collateral with Clearing corporation/ Clearing member - across all Stock Exchanges	Non funded portion of the Bank Guarantee (F) -across all Stock Exchanges	Proprietary margin Obligation-across all Stock Exchanges	Difference
G (from the reconciliation stage I - positive value)	E	F	P	I = P -(G+E+F)

Proprietary Obligation mentioned in column P shall be the sum of cash margin obligations and derivative margin obligations for proprietary trading as on reporting day

Table 3

RECONCILIATION -Funds of credit balance clients used for Margin obligations of debit balance clients and proprietary trading:

Total of end of the day balance in all Client Bank Accounts- across all Stock Exchanges	Total Credit Balance of all clients (after adjusting for open bills and uncleared cheques)- across all Stock Exchanges	Collateral deposited with clearing corporation / clearing member in form of Cash and Cash Equivalent s-across all Stock Exchanges	Margin utilized for positions of Credit Balance Clients (all exchanges)	Free/unblocked Collateral deposited with clearing corporation/ clearing member (MF)	Difference
A (from the reconciliation stage 1 - positive value)	C	B	MC	MF	B-(MC+MF)Or(C-A)-(MC+MF)

h. *BSE* Notice nos. 20160927-41 dated September 27, 2016

SEBI has issued circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 including the guidelines covering the following board areas:-
1. 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.
2. 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.
3. 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.

4. 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.

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

6. 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.

…………

Issue I: Whether Noticee has violated the following provisions:

a) Section 23D of SCRA read with Transactions Regulation Circular and Clauses 2.4, 3.3.1 of Annexure to Enhanced Supervision Circular and Enhanced Supervision Circular

b) Enhanced Supervision Circular to be read with Exchange Notice Nos. 20160927-41 dated September 27, 2016

c) Clause 2.6 of Annexure to Enhanced Supervision Circular read with Clause 2(d) of SEBI Circular ref. no. CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/64 dated June 22, 2017

d) Clause 3 and 4 of SEBI Circular ref. no. CIR/MIRSD/16/2011 dated August 22, 2011

e) Clause 3 OF SEBI Circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018

f) Clause 12 of SEBI Circular SEBI/MIRSD/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure to Enhanced Supervision Circular

12. I will now proceed to deal with the aforementioned allegations leveled against Noticee in the SCN, the submissions made by Noticee and record my observations/ findings as under:

A. **Misuse of the clients' funds**

Allegation in the SCN:

1. During the inspection, based on the principles and guidelines stipulated in clause 3 of SEBI Circular SEBI/HO/MIRSD/MIRSD 2/CIR/P/2016/95 dated September 26, 2016 (herein after referred to as "Enhanced Supervision Circular") reconciliation of clients' funds lying with the stock broker was done with the total available funds i.e. cash and cash equivalents with the stock broker and with the clearing corporation/clearing member, to detect any mis-utilization of clients' fund. It was observed that in 41 sample days, G value was found to be negative, ranging from Rs. 31.08 lakhs to Rs. 2.01 crores, which indicates that funds of credit balance clients was used for purpose of debit balance clients in all 41 days. Further, in 37 instances, the value of J was found positive which indicates that credit clients' funds was utilized towards margin obligations of debit balance clients. In view of the same, it is alleged that Noticee has violated the following provisions:
   a. Section 23D of SCRA read with Transactions Regulation Circular.
   b. Clause 3.3.1 of Annexure to Enhanced supervision circular.

Reply of Noticee:

Letter dated November 11, 2021

2. The Noticee *submits that it has been alleged that the Noticee has misused client funds and thus violated SEBI/HO/ MIRSD/ MIRSD2/ CIR/ P/2016/19 dated September 26, 2016 ("Enhanced Supervision Circular"). The Noticee submits that the enhanced supervision circular had come into force only on April 01, 2017 and therefore, the Noticee was at the nascent stage of implementing this circular. Moreover, the Noticee submits that the enhanced the most of the clients mentioned in the Annexure 3 to the captioned SCN are related parties and family members of the promoters and thus, no loss has been caused to the non-related clients of the Noticees. There are no complaints from any of the clients*.

Letter dated November 22, 2021

3. *With* regards *to the enhanced supervision circular and allegation of misuse of* funds*, the Noticee submits that though the G value was found to be negative in 41 sample days, ranging from Rs. 31.08 lakhs to Rs. 2.01 Crore the Noticee*

submitted that if the family members and associate entities are removed, the normal client's values are far more lesser. It was submitted that the Noticee has the clients into two categories i.e. Associates and Others. The Noticee has calculated the estimated loss to the other clients and has calculated the estimated loss to other clients is Rs.21,416.47. In light of the above, the Noticee submitted that, though there are certain lapses at a miniscule level, the Noticee submitted that it is an extremely small legacy broking firm and submits that a lenient view may be taken against the present Noticee.

Observations/Findings

4. Noticee in its submission has accepted that there were certain lapses on their part w.r.t. compliance with Enhanced Supervision Circular. Noticee in its reply has also stated that the amount of misutilization was miniscule in nature and that there were no complaints received from non-related clients. In this regard, I note that Noticee has accepted that there was a violation. I also note that provision of law does not differentiate between associates/ related clients and non-related clients. The plea taken by Noticee that no loss has been caused to non-related clients or no loss has been caused to investors does not absolve him of the requirement of adhering to the provision of law.

5. W.r.t. plea taken by Noticee that implementation of the circular was at very nascent stage, I note that Noticee, being a Registered SEBI Intermediary, should have implemented the circular when it was made operational. In any case, the sample dates of observation are of the months of October 2018 and November 2018, whereas the relevant circular had come in force w.ef. September 2016. In view of the same, I find that plea taken by Noticee that implementation of circular was at nascent stage is not acceptable.

6. It was also observed by SEBI that value of J was found positive for 37 days, which indicates that credit clients' funds were utilized towards margin obligations of debit balance clients. I find that Noticee has not disputed the said observation.

7. In view of the foregoing, I find that the allegation that Noticee has violated Section 23D of SCRA read with Transactions Regulation Circular and Clause 3.3.1 of Annexure to Enhanced Supervision Circular stands established.

B. **Client Funding**:-

Allegation in the SCN

1. During the course of inspection, top 30 clients' ledgers were verified to ascertain whether any exposures provided to clients without recovering the original debit amount within T+2+5 days. It was observed that on 13 instances, Noticee had funded its clients beyond T+2+5 days and the range of funding was from Rs. 1.72 lakhs to Rs. 8.28 crores. The details of the same is given as **Annexure.** Therefore, it is alleged that Noticee has violated Clause 2.6 of Annexure to Enhanced Supervision Circular read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/64 dated June 22, 2017.

Reply of Noticee:

Letter dated November 11, 2021

2. *The Noticee denies the allegation that the Noticee had funded its clients beyond T+2+5 days. The Noticee reiterates that most of its clients are the family members of the directors. We submit that the maximum loss to the non-related client was not more than Rs. 21,416.47. Hereto marked and annexed as Exhibit A is a copy of the Estimated Loss to the non-related client.*

3. *One client Shailesh G Hingarh (Client Code S38) who is director of the Noticee with the name Shatrunjay Credit Services Limited had incurred loss in FO segments with DH Securities Private Limited.) Therefore, Mr. Hingarh had instructed to withhold this amount towards the sale of share in BSE to the tune of 80 Lakhs; therefore there was debit balance since 11/10/2018. Hereto annexed and marked as Exhibit B is a copy of the ledger account of Mr. Hingarh for your reference.*

Observations/Findings

4. Noticee in its reply has admitted that they had granted further exposures to some debit *balance* clients, beyond T+2+5. However, Noticee has contended that the clients to whom exposures were granted were to those clients *who* were family members/ relatives /directors of associates firms. I note that as per Clause 2.6 of Annexure to Enhanced Supervision Circular as well as Clause 2(d) of SEBI circular

CIR / HO/ MIRSD/ MIRSD2/ CIR/P/2017/64 dated June 22, 2017, Stock Brokers are not allowed to give further exposure to their clients, if debit balances arise out of client's failure to pay the required amount and such debit balances continues beyond the fifth trading day, as reckoned from date of pay-in. I also note that provision of law does not differentiate between associates/related clients and non-related clients. Therefore, I find that this contention of Noticee is not acceptable. In view of the foregoing and in view of Noticee's own admission, I find that the allegation that Noticee has violated the provisions of Clause 2.6 of Annexure Enhanced Supervision Circular read with Clause 2(d) of SEBI circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/64 dated June 22, 2017 stands established.

C. Uploading/Reporting of Enhanced supervision data

Allegation in the SCN

1. During the course of inspection, compliance with Enhanced Supervision Circular was checked to verify the following:
    i. whether bank/demat accounts maintained by stock broker were assigned the appropriate nomenclature,
    ii. whether stock broker had reported new bank/demat accounts opened/closed to exchange within the time specified,
    iii. to ascertain the correctness of data submitted by the stock broker for details of client's assets,
    iv. to ascertain whether any alerts were generated on the basis of the data submitted and stock broker had provided any corrective/preventive action or not,
    v. to check whether stock broker had provided details of all clients as per Enhanced Supervision Circular.

2. During the course of inspection, it was observed that Noticee had reported the details of clients' assets under enhanced supervision wrongly or incorrectly. The details of the same given below:

Amount in Rs.

	As on date: 14-09-2018			As on date: 22-03-2019		
As reported by the stock broker	**As reported by the stock broker**	**As per Exchange Calculation**	**Difference**	**As reported by the stock broker**	**As per Exchange Calculation**	**Difference**
Total of day end balance in all client bank accounts - (A)	0.00	0.00	0.00	546,649.97	546,649.97	0.00

Collateral Deposited With Clearing Corporations In Form Of Cash And Cash Equivalents - (B1)	50,00,000	50,00,000	0.00	50,00,000	50,00,000	0.00
Collateral Deposited With Clearing Member In Form Of Cash And Cash Equivalents - (B2)	0.00	0.00	0.00	0.00	0.00	0.00
Total Credit Balance Of All Clients - (C)	3,01,21,511.79	3,01,21,511.79	0.00	12,225,505.43	1,22,25,505.43	0.00
Difference = G=(A+B1+B2)-C	-2,51,21,511.79	-2,51,21,511.79	0.00	-6,678,855.46	-66,78,855.46	0.00
Total debit balance of all clients - (D)	**2,61,10,367.77**	**2,61,13,900.57**	**-3,532.80**	**51,53,271.62**	**57,00,455.61**	**-5,47,183.99**

3. Further, it was observed that Noticee had not uploaded details of 199 clients in clients' funds and securities in Enhanced Supervision for the month April 2019. The details of the same is given as **Annexure-5**.

4. In view of the above, it is alleged that Noticee has violated the provisions of Enhanced Supervision Circular read with Exchange Notice Nos. 20160927-41, dated September 27, 2016.

Reply of Noticee:

Letter dated November 11, 2021

5. *With regards* to *the allegation that the Noticee has incorrectly reported client's asset under the enhanced supervision circular, the Noticee submits that with regards to the difference of Rs.3,532.00 on September 14, 2018; the Noticee submits that this marginal error is on account of a trade error which was not reported. The Noticee also submits that with regards to the difference of Rs. 5,47,183.99; this difference is on account of a trade error of Rs. 534.02 and overdraft balance of Rs. 5,46,649.97 reported under the enhanced supervision circular.*

6. *In light of the above, the Noticee submits that the allegation of incorrect reporting is based upon only 2 instances. These differences have occurred on account of inadvertent reporting. The Noticee has been in the business for several years and there are no precedents of happening of such miniscule errors.*

7. *With regards to the allegation that the Noticee has not uploaded details of 199 clients for the month of April 2019; the Noticee submits that these allegations are unsubstantiated and without any merit. The Noticee submits that, it has never skipped uploading any of the client details. The Noticee had sent an email dated October 22, 2019 to BSE submitting the required documents for April 2019. However, till date the Noticee has not received any response from BSE. Hereto annexed and marked as Exhibit C is a copy of the email dated October 22, 2021*.

Letter dated November 22, 2021

8. *With regards to the allegation that of violation of enhanced supervision circular, the Noticee submitted that the difference of Rs.547183.99 mentioned in the Table-1 is on account of trade error of Rs.534.02 and Rs.546469.97 reported under the enhanced supervision circular. It was submitted that this amount was not reported since it is a bank overdraft amount. As most of the time client account has had positive balances only, OD is generally not considered for the reporting and due to this overdraft balance in the bank account remain unreported.*

Observations/Findings

9. W.r.t. allegation regarding wrong reporting of clients' assets under Enhanced Supervision Circular, I note that Noticee has admitted to the default and stated that the said marginal error occurred due to trade error and not reporting Overdraft Balance.

10. W.r.t. allegation regarding uploading details of 199 clients, Noticee has contended that they had never failed to upload any of the clients' details. However, this claim of Noticee has not been substantiated with any documentary evidence. Therefore, I am not inclined to accept this contention of Noticee and would be inclined to go with the evidence placed on record in this regard.

11. I note that vide Supplementary SCN dated January 28, 2022, it was communicated to Noticee that the alleged violations of the provisions of Enhanced Supervision

Circular read with Exchange/BSE Notice no. 20160927-41 dated September 27, 2016 makes Noticee liable for penalty under Section 15A(b) of SEBI Act. In this regard Noticee vide letter dated March 22, 2022, has inter-alia submitted that, it has furnished all the information and documents sought by SEBI, within the timelines specified by SEBI and hence there arises no question of Noticee violating Section 15A(b) of the SEBI Act. In this regard, I note that as elaborated previously that Noticee had reported the details of clients' assets under Enhanced Supervision wrongly/ incorrectly. Further, I note that Noticee had not uploaded details of 199 clients, in clients' funds and securities in Enhanced Supervision for the month of April 2019. Thus, I note that the said violation of the provisions of Enhanced Supervision Circular read with Exchange Notice nos. 20160927-41 dated September 27, 2016 clearly attracts monetary penalty under Section 15A(b) of SEBI Act. Thus, I find no merit in the above contention of Noticee.

12. In view of the foregoing, I find that the allegation that Noticee has violated Clause 6.1.1.j of Annexure to Enhanced Supervision Circular read with Exchange Notice nos. 20160927-41 dated September 27, 2016 stands established.

D. Non settlement of Clients funds and securities.

Allegation in the SCN

1. During the inspection, the process followed by Noticee to comply with the various provisions of SEBI Circular No. MIRSD/SE/Cir-19/2009 dated December 03, 2009, were checked by for all active and inactive clients of Noticee. It was observed that Noticee had not settled the credit balance of 87 clients over 6 quarters, with amount ranging from Rs. 2.79 crore to Rs.15.13 crore. The details of the same is given below:

S. No.	Quarter	Number of clients having credit balance not settled	Total Amount of non-settlement (In Rs.)	No. of Related Entities (i.e. Group company or Directors)	Amount not settled for related entities (Group Company or Directors) (In Rs.)
1	Apr 17 to Jun 17	11	15,13,20,320	4	15,12,95,221
2	Jul 17 to Sep 17	14	2,81,05,435	3	2,79,45,694
3	Oct 17 to Dec 17	34	3,5,709,478	3	3,37,01,050
4	Jan 18 to Mar 18	2	3,10,46,319	2	3,10,46,319

S. No.	Quarter	Number of clients having credit balance not settled	Total Amount of non-settlement (In Rs.)	No. of Related Entities (i.e. Group company or Directors)	Amount not settled for related entities (Group Company or Directors) (In Rs.)
5	Apr 18 to Jun 18	9	6,26,67,565	2	6,25,29,805
6	Jul 18 to Sep 18	17	4,73,33,144	2	4,12,93,013

2. Therefore, on account of such non-settlement of clients' funds, it is alleged that Noticee has violated Clause 12 of Annexure to SEBI circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure to Enhanced Supervision Circular.

Reply of Noticee:

Letter dated November 11, 2021

3. *The captioned SCN has alleged that the Noticee has failed to settle accounts of its clients to the tune of Rs. 2.92 crores to 15.13 crores. The Noticee submits that most of the amounts mentioned in the Table-3 of the Show Cause Notice relates to the directors/ group companies of the Noticees. The Noticee submits that the alleged difference in the sum of total amount not settled and amount not settled for the related entities is minuscule. It is evident from the following table:*

Sr. No.	*Quarter*	*No. of clients having credit balance not settled*	*Total amount not settled*	*No. of related entities*	*Amount of related entities not settled.*	*Difference*
1	*Apr 17 to June 17*	*11*	*15,13,20,320*	*4*	*15,12,95,221*	*25,099*
2	*Jul17 to Sep 17*	*14*	*2,81,05,435*	*3*	*2,79,45,694*	*1,59,786*
3	*Oct 17 to Dec 17*	*34*	*3,57,09,478*	*3*	*3,37,01,050*	*20,08,428*
4	*Jan 18 to Mar18*	*2*	*3,10,46,319*	*2*	*3,10,46,319.*	*0*
5	*Apr 18 to Jun 18*	*9*	*6,26,67,565*	*2*	*6,25,29,805*	*1,37,760*
6	*Jul18 to Sep 18*	*17*	*4,73,33,144*	*2*	*4,66,50,928*	*68,216*

4. *The Noticee submits that a bare perusal of the abovementioned table indicates that most of the accounts pertaining to the non-related client were settled by the Noticee. Therefore, the Noticee submits that it has not violated Clause 12 of the Annexure to SEBI Circular MIRSD/SE/Cir- 19/2009 dated December 03, 2009 and Clause 8.1 of Annexure to Enhanced Supervision Circular. The Noticee submits that, the SCN has not considered that the HS Trading Credit balance under the related party amount was Rs. 53,57,915.36, hence the difference is only Rs. 68,216 and not Rs. 60,40,131, as alleged.*

<u>Letter dated November 22, 2021</u>

5. *With regard to the non-settlement of client funds and securities, the Noticee submitted that most of the alleged non-settled accounts relates to the promoter/related entities. The Noticee submits that, all the non-related entities are settled. This is evident from the table mentioned in paragraph 10 of the Noticee's reply dated November 11, 2021*.

<u>Observations/Findings</u>

6. I note that Noticee, in its submission has accepted the lapses on its part. However, Noticee has taken a plea that the accounts which were not settled are those clients who were their relatives/ directors. I find that the plea taken by Noticee is not acceptable, since as per SEBI Circular dated December 03, 2009, Noticee is bound to settle the account of its all clients. I also note that the SEBI circular dated December 3, 2009, which requires settlement of funds and securities of the clients by the broker, came into effect from December 03, 2009 and the lapses in this regard even after ten years are to be viewed seriously. Moreover, the claim by Noticee that all non-related entities are settled has not been backed by any documentary evidence and therefore is unacceptable. Therefore, I find that the allegation that Noticee is in violation of Clause 12 of Annexure to SEBI circular MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure to Enhanced Supervision Circular stands established.

E. Non-segregation of client funds

Allegation in the SCN

1. During the course of inspection, clients ledger, client bank accounts, own bank account and bank statement for BSE cash, Future & Option and Currency were verified. It was observed that Noitcee had used clients' bank account to do payments on behalf of clients pertaining to demat charges to DP account. The details of the same is given as **Annexure-6**. In view of the same it is alleged that Noticee has violated the following provision:

    a. Section 23D of SCRA read with Transactions Regulation Circular
    b. Clause 2.4 of Annexure to Enhanced Supervision Circular

2. During the course of inspection, the trading details of directors/ promoters/ related entities were checked to ascertain whether funds and securities of client were being utilized towards meeting the obligation of its directors/promoters/related entities. On perusal of the ledgers of directors/ promoters/ related entities, it was observed that there were no availability of funds in ledger vis-a vis. pay-in obligation. Therefore, it was observed that clients' fund were utilized to meet fund obligation of the directors/promoters/ related entities. The details of the same is given below:

Table:-3 Clients funds utilized for meeting fund obligation of directors/ promoters/ related entities

Amount in Rs.

S. No	Name of the Director	Trade Date	Pay in Obligation
1	Haresh S Jhaveri	11/04/2017	1,37,91,502.95
2	Haresh S Jhaveri	26/12/2017	1,43,65,582.43
3	Haresh S Jhaveri	15/01/2018	1,41,45,805.00
4	Kunal H Jhaveri	18/01/2018	2,34,29,833.94
5	Kunal H Jhaveri	22/01/2019	85,50,944.89
	Total		**7,42,83,669.21**

3. From the above table, it was observed that Noticee had utilized clients fund ranging from Rs. 85.50 lakhs to Rs.2.34 crores for meeting pay-in obligation of its director/ promoters/ related entities. In view of the same it is alleged that Noticee has violated the following provisions:

    a. Section 23D of SCRA read with Transactions Regulation Circular
    b. Enhanced Supervision Circular

<u>Reply of Noticee</u>:

<u>Letter dated November 11, 2021</u>

4. *It also* alleged *that the Noticee had utilized client funds to meet fund obligation of the directors/promoters/related entities. The Noticee submits that funds of D H Securities Private Limited (D H Securities) was utilized for the directors of the company mentioned in Table 3 of the SCN. The Noticee submits that D H Securities is a sister concern and the directors of the Noticees are also the directors of the D H Securities. The Noticee submits that D H Securities is a depository participant registered with CDSL and it manages the DP operations of the Noticee's clients. During the inspection period, one of the Noticee's new staff member had inadvertently made a payment of Rs. 29,288 on behalf of client. Thus, the Noticee submits that, this alleged violation was on account of inadvertence and the funds of non-related clients were not utilized to meet fund obligation of directors/related entities*

<u>Letter dated November 22, 2021</u>

5. *With regards to the allegation of client bank account not used for specific purpose, the Noticee submitted that during the period of inspection, one of the Noticee's employee had inadvertently made a payment of Rs. 29,288 on behalf of the client. Hence, this difference is appearing in Annexure 6 of the captioned SCN. It is submitted that this amount is too minuscule to hold the Noticee guilty of violation. In light of the same, the Noticee submits that there is no violation of S.23D of SCRA and Clause 2.4 of Annexure to Enhanced Supervision Circular.*

6. *With regards to the allegation that the client funds were used to meet obligation of directors/promoters, the Noticee submits that the promoters/ directors mentioned in Table-3; paragraph 18 of the SCN mentioned are also the promoters/ directors of DH Securities Private Limited. The funds mentioned in the above- mentioned table belong to DH Securities Private Limited and thus, the Noticee submits that funds of other clients were not used to meet obligations of promoters/ directors.*

Observations/Findings

7. I note that in its submission, Noticee has accepted the allegation regarding use of clients' bank accounts for payment on behalf of clients pertaining to demat charges However, considering that the amount involved i.e. 29,288/- is miniscule in nature, the aforesaid violation can be considered as technical in nature. Therefore, I am inclined to drop the said allegation levelled against Noticee in this regard.

8. W.r.t. allegation that clients' funds has been utilized for the payment obligation of directors/promoters, Noticee, in its reply, has admitted that they had utilized their clients' funds. However, Noticee has taken a plea that all these clients were relatives of Noticee. In this regard, I note that Transaction Regulation Circular as well as Enhanced Supervision Circular prohibits stock brokers from utilizing clients' funds for the payment obligation of debit balances clients. I also note that the provision of law does not differentiate between associates/ related clients and non-related clients. Therefore, the plea taken by Noticee is not acceptable. In view of the foregoing, I find that allegation levelled against Noticee that it has violated Section 23D of SCRA read with Transactions Regulation Circular and Enhanced Supervision Circular stands established.

F. Proof of Order Acceptance Verification

Allegation in SCN

1. During the course of inspection, 5 dates were randomly chosen for verifying the order placement records. During the course of inspection, Noticee submitted that it does not have recording system for order placement from client. The submission made by Noticee is given as **Annexure -7**. Therefore, it is alleged that Noticee has violated Clause 3 of SEBI Circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018.

Reply of Noticee:

Letter dated November 11, 2021

2. *The Noticee submits that it a small broking firm and does not take any walk-in clients. Most of its client are the family members or the related entities and thus, it did not have any* order *placement mechanism in place. We further state that,*

the Noticee is operates on a small scale and generally, our client places an order over phone to the bolt operator; however we do not have any recording of the same. It is pertinent to mention that the until today; no dispute has been raised by the client regarding any orders executed by the Noticee.

Letter dated November 22, 2021

3. *With regards to the allegation that the Noticee does not have an order* placement *mechanism, the Noticee submitted that, since most of its clients are family members or relatives, these clients used to visit the Noticee or place the order through calls. Further, there have been no complaints from any of the clients.*

Observations/Findings

4. In their submissions, Noticee has accepted that they are not having order acceptance mechanism in place. In view of Noticees admission to the default, I find that allegation levelled against Noticee that it has violated Clause 3 of SEBI Circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018 stands established.

G. Discrepancies in KYC and KRA Process

Allegation in SCN

1. During the inspection, client registration process w.r.t. KYC requirements, Account opening process, KRA process, POA, client master analysis for multiple bank accounts, Unique Client Code (UCC), PAN, contact details were verified for the 39 sample clients who were registered during the inspection period. It was observed that Noticee had not provided tariff sheet to individual clients and HUF clients in all the 30 sample clients. Further, in case of client codes D090 and P090, no additional documents were obtained for trading in derivatives segments. Further, for individual clients trading preferences was not signed for UCC A064, PN126, PM182, PM531, PJ516, PJ519, PJ124, PH531, PA525 and PD521.

2. The details of the aforesaid instances is given as **Annexure-8.** In view of the same, it is alleged that Noticee has violated Clauses 3 and 4 of SEBI Circular reference no. Cir/MIRSD/16/2011 dated August 22, 2011.

Reply of Noticee:

Letter dated November 11, 2021

3. With *regards to the allegation that the tariff sheet was not provided to the individual* clients *and HUF clients in all the 30 sample clients, the Noticee submits that it has maintained a tariff sheet for all the clients. With regards to the allegation that trading preference of the clients mentioned in the paragraph 18 of the SCN, the Noticee states that it is not a member of the derivative segment of the BSE and has not executed any transactions in any other segment except for cash segments.*

Letter dated November 22, 2021

4. With *regards to the discrepancies in KYC and KRA process, the Noticee submitted that it* has *maintained the tariff sheets for all its clients. Moreover, the Noticee is only a member of Bombay Stock Exchange (BSE) and therefore, there arises no question of obtaining additional documents from clients trading in derivative segment.*

Observations/Findings

5. Noticee, in its submission has admitted that they had not provided tariff sheet to individual clients as well as HUF clients. In view of Noticee's admission to the default, I find that allegation levelled against Noticee that it has violated Clauses 3 and 4 of SEBI Circular reference no. Cir/MIRSD/16/2011 dated August 22, 2011 stands established.

6. W.r.t. allegation levelled against Noticee for not obtaining additional documents for 2 clients and not obtaining trading preference in the derivative segment, Noticee has contended that they are not the member of derivative segment of BSE and had not executed any transactions in any other exchange other than cash segment and therefore, there was no need to obtain additional documents from clients for trading. In this regard, I note from the material available on record that Noticee was a member of CM segment in the year 1997 and was not a member of F&O Segment and CD segment. In absence of any other evidence to the contrary, I am inclined to accept Noticee's contention in this regard. In view of the

same, I find that allegation levelled against Noticee that it has violated Clauses 3 and 4 of SEBI Circular reference no. Cir/MIRSD/16/2011 dated August 22, 2011, does not stand established in this regard.

Issue No. II: Do the violations, if any, attract monetary penalty under Section 23D of SCRA, Section 15A (b) of SEBI Act and Section 15HB of SEBI Act

13. It has been established in the foregoing paragraphs that Noticee has violated the following provisions: -
    a. Section 23D of SCRA read with Transactions Regulation Circular and Clause 3.3.1 of Annexure to Enhanced Supervision Circular
    b. Section 23D read with Transactions Regulation Circular and Enhanced Supervision Circular
    c. Clause 6.1.1.j of Annexure to Enhanced Supervision Circular to be read with Exchange Notice Nos. 20160927-41dated September 27, 2016
    d. Clause 2.6 of Annexure to Enhanced Supervision Circular read with Clause 2(d) of SEBI Circular ref. no. CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/64 dated June 22, 2017
    e. Clauses 3 and 4 of SEBI Circular ref. no. CIR/MIRSD/16/2011 dated August 22, 2011
    f. Clause 3 of SEBI Circular SEBI/HO/MIRSD/DOP1/CIR/P/2018/54 dated March 22, 2018
    g. Clause 12 of SEBI Circular SEBI/MIRSD/Cir-19/2009 dated December 03, 2009 read with Clause 8.1 of Annexure to Enhanced Supervision Circular

14. In context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon'ble Court had observed: *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established……… ."*.

15. Therefore, in view of the violations as established and placing reliance on the aforesaid judgment, I find that :
    a. Monetary penalty would be attracted under Section 23D of SCRA for the violations of Section 23D of SCRA read with Transactions Regulation Circular and Clause 3.3.1 of Annexure to Enhanced Supervision Circular and Enhanced Supervision Circular

b. Monetary penalty would be attracted under Section 15A (b) of SEBI Act for the violations of Clause 6.1.1.j of Annexure to Enhanced Supervision Circular read with Exchange Notice Nos. 20160927-41 dated September 27, 2016.

c. Monetary penalty would be attracted under Section 15HB of SEBI Act for the violations of Clause 2.6 of Annexure to Enhanced Supervision Circular read with Clause 2(d) of SEBI Circular ref. no. CIR/HO/MIRSD/MIRSD2/ CIR/P/2017/64 dated June 22, 2017, Clauses 3 and 4 of SEBI Circular ref. no. CIR/MIRSD/16/2011 dated August22, 2011, Clause 3 of SEBI Circular ref. no. SEBI /HO /MIRSD /DOP1/ CIR/P/2018/54 dated March 22, 2018 and Clause 12 of SEBI Circular ref. no. SEBI/MIRSD/Cir-19/2009 dated December 03, 2009 read with Clause 8.1 of Annexure to Enhanced Supervision Circular.

16. The texts of Section 23D of SCRA, Section 15A(b) of SEBI Act and Section 15HB of SEBI Act are reproduced as under:

Section 23 D of SCRA- *Penalty for failure to segregate securities or moneys of client or clients**:** 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.*

Section 15A (b) of SEBI Act: - *If any person, who is required under this Act or any rules or regulations made thereunder,—*
(b) to file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, 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

Section 15HB of SEBI Act: - *Penalty for contravention where no separate penalty has been provided: 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>Issue No. III: If the answer to issue no. II is in affirmative, then what should be the quantum of monetary penalty</u>?

17. While determining the quantum of penalty under Section 23D of SCRA, Section 15A(b) of SEBI Act and Section 15HB of SEBI Act factors stipulated in Section 23J of SCRA and Section 15J of the SEBI Act have to be given due regard:

Factors to be taken into account by adjudicating officer under SCRA

23J. *While adjudging the quantum of penalty under Section 23-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 investors 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 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.

Factors to be taken into account by the adjudicating officer under SEBI Act

15J. *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 investors 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.*

18. In the present matter, it is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of the defaults by Noticee. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors /clients on account of default by Noticee. As regards the repetitive nature of the default, I do not find the Inspection having brought on record any regulatory action taken by SEBI in past against Noticee for same violations as those observed in the instant inspection. I also observe that there are no investor complaints on record, arising out of failure on the part of Noticee. However, I cannot ignore the fact that as a SEBI registered Intermediary, Noticee was under a statutory obligation to abide by the provisions of the SCRA, SEBI Act, Rules and Regulations and Circulars/directions issued thereunder etc., which it failed to do. Such disregard for the provisions of law governing the functioning of intermediaries calls for an appropriate penalty which should act as a deterrent.

ORDER

19. Having considered all the facts and circumstances of the case, the material available on record as well as the factors mentioned in Section 23J of SCRA and Section 15J of SEBI Act, I, in exercise of the powers conferred upon me under Section 23-I of the SCRA and Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose the following penalty on Noticee, viz. S.B. Securities Pvt. Ltd..: -

Sr. No.	**Penalty**	**Under the provisions of**
1	Rs. 3,00,000(Rupees Three Lakh)	Section 23D of SCRA
2	Rs.1,00,000(Rupees One Lakh only)	Section 15A(b) of SEBI Act
3	Rs. 2,00,000(Rupees Two Lakh only)	Section 15HB of SEBI Act
Total	**Rs. 6,00,000 (Rupees Six Lakh)**	

I am of the view that the said penalty is commensurate with the violations committed by Noticee.

20. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government

of India", payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.

In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in.

21. Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – II of SEBI. Noticee shall provide the following details while forwarding DD/ payment information:

    i. Name and PAN of the entity (Noticee)
    ii. Name of the case / matter
    iii. Purpose of Payment – Payment of penalty under AO proceedings
    iv. Bank Name and Account Number
    v. Transaction Number

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

23. In terms of the provisions of Rule 6 of Adjudication Rules, copy of this order is being sent to Noticee viz. M/s. S.B. Securities Pvt. Ltd. and also to SEBI.

Date: April 19, 2022
Place: Mumbai

SOMA MAJUMDER
Adjudicating Officer