

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Section 12 (3) of the Securities and Exchange Board of India Act, 1992 read with Regulation 27 of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

In respect of

Sr. No.	Name of the Noticee	SEBI Registration No.
1.	Phillip Capital (India) Private Limited	INZ000169632

In the matter of Phillip Capital (India) Private Limited

1. The Noticee is registered as a Stock Broker with Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”). The present proceeding is originating from the Enquiry Report dated June 28, 2024, submitted by the Designated Authority (hereinafter referred to as “**DA**”), in terms of the applicable provisions of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as “**Intermediaries Regulations**”). The DA, based on the various facts and observations so recorded in the Enquiry Report, has recommended that the matter against Phillip Capital (India) Private Limited (hereinafter referred to as “**Noticee**”) may not be proceeded further.
2. SEBI had conducted an inspection of the Noticee for the period from April 01, 2021 to October 31, 2022 (hereinafter referred to as “**inspection period**” / “**IP**”) in order to examine various compliance requirements. The findings/ observations made during the course of inspection were communicated to the Noticee by SEBI vide letter dated January 12, 2023. After examining the reply submitted by the Noticee vide letters dated January 25, 2023 and October 17, 2023, it was observed in the inspection report that the Noticee had contravened various provisions of Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as “**SCR Rules, 1957**”) and applicable SEBI Circulars. The summary of said contraventions alleged to have been committed by the

Noticee and the corresponding provisions of SCR Rules, 1957 and SEBI Circulars are given in the table below:

Table 1

Sr. No.	Alleged Violations	Regulatory Provisions
1	Nomenclature of bank accounts not in prescribed format	Clause 1 of Annexure to SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
2	Incorrect reporting of enhanced supervision data (weekly) (NSE)	Clause 3 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016
3	Incorrect reporting of data regarding bank balance and cash and cash equivalent balances	Clause 3.2 of Annexure to SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/CIR/P/ 2016/95 dated September 26, 2016
4	Non-adherence to the rules of membership	Rule 8(3)(f) of SCR Rules, 1957
5	Improper dealing	Clause 3 of SEBI Circular SEBI/ MIRSD//Cir-06/2004 dated January 13, 2004
6	Cyber security and cyber resilience	Clause 36, 41 and 42 of Annexure 1 to the SEBI Circular SEBI/HO/MIRSD/CIR/PB /2018/147 dated December 03, 2018

- Based on the findings of the said inspection, a DA was appointed to inquire into and to submit a report pertaining to the aforesaid allegations. The DA issued a show-cause notice (hereinafter referred to as “**SCN**”) dated March 27, 2024 to the *Noticee* under Regulation 25(1) of the Intermediaries Regulations to show cause as to why appropriate recommendation should not be made against it in terms of Regulation 26 of the Intermediaries Regulations for the violations alleged to have been committed by the Noticee, as mentioned above at Table No. 1. The Noticee was advised to submit its reply, if any, within 21 days of receipt of the notice. The irregularities brought in the aforesaid

inspection and the allegations levelled in the SCN issued by the DA have been reproduced hereunder.

- a) Nomenclature of the bank accounts was not in the prescribed format;
 - b) Incorrect reporting of enhanced supervision data (weekly) (NSE);
 - c) Incorrect reporting of data regarding bank balance and cash and cash equivalent balances;
 - d) Non-adherence to the rules of membership;
 - e) Improper dealing;
 - f) Cyber security and cyber resilience.
4. In response to the aforesaid allegations, the *Noticee*, vide its letter dated May 03, 2024 submitted a detailed reply to the aforesaid show-cause notice. Pursuant to the receipt of the said reply, an opportunity of personal hearing was granted to the *Noticee* by the DA on June 18, 2024, which was availed by the *Noticee*. Subsequently, the *Noticee* filed post hearing submissions dated June 21, 2024.
5. After considering the allegations levelled in the show-cause notice, reply filed by the *Noticee* and the material available on record, the DA, submitted the aforesaid Enquiry Report and made the following recommendation:
- “With regard to the above violations, Noticee has been penalised vide Adjudication Order No. Order/BM/DS/2024-25/30530 dated June 25, 2024. Given the above, I am of the view that the matter may not be proceeded further.”*
6. The DA report was forwarded to the *Noticee* in terms of Regulation 27(1) of the Intermediaries Regulations vide Notice dated July 18, 2024. It was stated in the said Notice that if the *Noticee* wishes to file any submission/information along with any supporting documents, it may do so within 10 days from receipt of the said Notice and pursuant thereto, the matter would be proceeded with in accordance with Regulation 27(5) of the Intermediaries Regulations.
7. I note that the Notice was delivered to the *Noticee* and pursuant to the same, the *Noticee*, vide its letter dated July 30, 2024 stated that it had submitted its detailed replies vide letters dated May 03, 2024 and June 21, 2024 along with

the annexures and requested SEBI to take them on record. It was also submitted that it has been penalized vide the Adjudication Order dated June 25, 2024 and requested SEBI to not proceed further as recommended by the DA.

8. In terms of the Intermediaries Regulations, it is not necessary for the Competent Authority to give the *Noticee*, any opportunity of personal hearing, if neither the DA has recommended cancelation of certificate of registration nor the Competent Authority is of the *prima facie* view that it is a fit case for cancellation of certificate of registration. Therefore, the matter is being proceeded further based on the material available on record.

CONSIDERATION AND FINDINGS:

9. I have carefully perused the Enquiry Report issued to the Noticee along with the Notice dated July 18, 2024, the SCN issued by the DA and the replies filed by the Noticee and other material available on record. In the instant proceedings, the DA has not recommended any action against the Noticee and observed that the matter is not required to be proceeded further.
10. The SCN issued by the DA had made allegations on six counts as mentioned above at para 3. In response thereto, the Noticee filed its replies vide letter dated May 03, 2024 and June 21, 2024. Further, in response to the Notice dated July 18, 2024 also, the Noticee requested SEBI to take into consideration the replies already filed by it. The DA has already examined the earlier replies filed by the Noticee and has made the recommendation in the Enquiry Report.
11. The DA has made the following observations with respect to the allegations contained in the SCN.

Sr. No.	Alleged Violations	Observations of DA
1	Nomenclature of bank accounts not in prescribed format	The violation of the provisions of Clause 1 of Annexure to SEBI Circular No. SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016/95 dated September 26, 2016 does <i>not</i> stand established.
2	Incorrect reporting of enhanced	The Noticee has violated the provisions of Clause 3 of Annexure of SEBI Circular

Sr. No.	Alleged Violations	Observations of DA
	supervision data (weekly) (NSE)	SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
3	Incorrect reporting of data regarding bank balance and cash and cash equivalent balances	The Noticee has violated the provisions of Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.
4	Non adherence to the rules of membership	The alleged violation of the provisions of Rule 8(3)(f) of the SCR Rules, 1957, does <i>not</i> stand established.
5	Improper dealing	The alleged violation of provisions of SEBI Circular SEBI/ MIRSD//Cir-06/2004 dated January 13, 2004 does <i>not</i> stand established.
6	Cyber security and cyber resilience	The alleged violation of Clause 36, 41 and 42 of Annexure 1 to the SEBI Circular SEBI/HO/MIRSD/CIR/PB /2018/147 dated December 03, 2018 does <i>not</i> stand established.

12. As brought out in the above Table, the DA has observed that except the provisions of Clause 3 and Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/ CIR/P/2016/95 dated September 26, 2016 which *inter alia* deal with incorrect reporting of enhanced supervision data (weekly) (NSE) and incorrect reporting of data regarding bank balance, cash and cash equivalent balances, none of the allegations contained in the SCN were established against the Noticee. Further, the Noticee has submitted that it has taken corrective steps to ensure compliance with the applicable SEBI and NSE Circulars. In this context, the DA has also noted that there is no allegation against the Noticee of mis-utilisation of the clients' funds with respect to incorrect reporting of enhanced supervision data to the Exchanges.
13. It is also pertinent to note that for the same set of allegations, adjudication proceedings were also initiated by SEBI which were concluded with passing of

Adjudication Order dated June 25, 2024 whereby the Adjudicating Officer imposed a penalty of ₹2,00,000 upon the Noticee, which has been paid by the Noticee.

14. I have also perused the replies filed by the Noticee and note that for the allegation related to the incorrect reporting of enhanced supervision data, the Noticee has *inter alia* submitted that the balance in client accounts and its settlement account and collaterals maintained with the exchanges were always greater than the funds provided by the clients. Further, pursuant to its inspection, NSE had also observed that it had excess funds (details also provided by the Noticee). It has also been submitted that the intention of Enhanced Supervision reporting was to find out mis-utilisation of client funds and from the observations made by NSE, it is evident that there was no mis-utilisation by the Noticee, as it had excess funds with it at all points of time.
15. For the allegation related to improper reporting of the data relating to bank balance(s), the Noticee has submitted that the balances were required to be manually calculated after considering the uncleared cheques and the error was only on account of manual human errors. The Noticee also provided copy of one of its bank statement to demonstrate that calculating clear bank balance was difficult and there was a possibility of human errors. Further, as submitted, the issue was only in few bank accounts and the balances of its other bank accounts were properly captured.
16. For the improper reporting of the data relating to cash and cash equivalents, it has *inter alia* been submitted that some of the mismatch was due to software issues. Further, it has been submitted that the error was not in segregation reporting but the client balances which were reported as part of Cash & Cash Equivalent reporting. Also, NSE had already issued a Letter of Observation with respect to its "Cash and Cash Equivalent" reporting and has already penalized it. Subsequently, necessary rectification was done in the back office and no further issues were identified by NSE.
17. Apart from the above, I take note of the fact that alleged violations on two counts have been established against the Noticee and for that monetary penalty has been imposed on the Noticee. Further, there are certain mitigating circumstances as mentioned above and the Noticee has also informed that it has taken corrective steps to rectify the alleged defaults. Therefore, I agree

with the recommendation made by the DA that no action is warranted in this case and the matter is not required to be proceeded further.

18. In view of the above, I, in exercise of the powers conferred upon me under Section 19 of the SEBI Act, 1992 read with Regulation 27(5) of the Intermediaries regulations, dispose of the proceedings initiated against the Noticee, Phillip Capital (India) Private Limited without issuance of any direction.
19. A copy of the Order shall be served on the Noticee and the concerned Market Infrastructure Institutions for their information and record.

Sd/-

DATE: OCTOBER 04, 2024

AMARJEET SINGH

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA