BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER No. Order/AN/RG/2024-25/31167

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:
Motilal Oswal Financial Services Limited
(PAN: AAECM2876P / SEBI Registration Number: INZ000158836, IN-DP-16-2015)

In the matter of Motilal Oswal Financial Services Limited

A. BRIEF BACKGROUND

1. Securities and Exchange Board of India (hereinafter also referred to as '**SEBI**') conducted inspection of the Stock Broker and Depository Participant, Motilal Oswal Financial Services Limited (hereinafter also referred to as '**Noticee/ Entity/ MOSFL/ Trading Member/ Member/ TM/ Broker/ DP'**), jointly with Stock Exchanges (BSE, NSE, MCX and NCDEX) and Depositories (CDSL and NSDL) for the inspection period April 01, 2021 to June 30, 2022. The findings of the inspection were communicated to the entity by SEBI vide its letters dated October 08, 2022, March 23, 2023 and November 20, 2023. Vide letters dated October 31, 2022, April 5, 2023, January 08, 2024, MOSFL submitted its reply to the findings of inspection.

2. Based on the analysis of replies received and examination in the matter by SEBI, briefly stated, it was inter alia observed by SEBI that Noticee had allegedly violated

various provisions of Securities Contract (Regulation) Rules, 1957 ("SCR Rules, 1957"), Securities and Exchange Board of India (Stock Brokers) Regulations, 1992 ("SEBI Stock Broker Regulations" / "SEBI Stock Broker Regulations, 1992"), SEBI (Depositories and Participants) Regulations, 2018 ("DP Regulations/ SEBI DP Regulations") and various Circulars viz.,

I. Clause 1, 2, 3, 4, 5 and 6 of SEBI Circular No. CIR/DNPD/7/2011 dated August 10, 2011; Clause 4.1.2 of SEBI/HO/MIRSD/DOP/CIR/P/2019/139 dated, November 19, 2019; Clause 2.1 of SEBI/HO/MIRSD/DOP/CIR/P/2020/146 July 31, 2020; Clause 3 (xii) of SEBI/HO/CDMRD/DRMP/CIR/P/2016/80 dated September 07, 2016.

II. Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

III. Regulation 9(e) of SEBI (Stock Brokers) Regulations, 1992.

IV. Rule 8 (3) (f) of the Securities Contract (Regulation) Rules, 1957.

V. Clause 19 of SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 and NSE circular NSE/COMP/35125 dated June 15, 2017 & NSE/COMP/35260 dated June 30, 2017, NSE/INSP/43069 dated December 31, 2019, NSE/INSP/43724 dated March 02, 2020, NSE/INSP/45191 dated July 31, 2020 and NSE/COMP/48531 dated June 09, 2021 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

VI. Clause 4.1 and 4.3 of SEBI circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 and NSE circulars NSE/INSP/41359 dated June 20, 2019, NSE/INSP/42000 dated August 29, 2019, NSE/INSP/42052 dated September 04, 2019 and NSE/INSP/42229 dated September 27, 2019 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

VII. Regulation 72(1) of SEBI (Depositories and Participants) Regulations, 2018.

VIII. Regulation 17 of SEBI (Stock Brokers) Regulations, 1992.

IX. Clause 12(e) of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and BSE Notice No 20200210-47 dated 10, February 2020 read with Clause A(5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992; Clause 5.3 of SEBI circular SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

Accordingly, SEBI initiated adjudication proceedings against the Noticee under Section 15-I of SEBI Act, 1992 (hereinafter also referred as “SEBI Act”) and under Section 23 I of the Securities Contracts (Regulation) Act, 1956 (“SCR Act/ SCR Act, 1956”) for the alleged violations of the provisions, as stated.

B. APPOINTMENT OF ADJUDICATING OFFICER

3. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violations by the Noticee, as stated and therefore, in exercise of the powers conferred under Section 19 read with Section 15 I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter also referred as ‘SEBI Rules’), and under Section 23 I of the SCR Act, 1956 read with Rule 3 of the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter also referred as ‘SCR Rules, 2005’), the Competent Authority appointed the undersigned as Adjudicating Officer (“AO”) vide order dated June 06, 2024 to inquire into and adjudicate under Section 15HB, Section 15C and Section 15A(c) of the SEBI Act, 1992, and Section 23H of SCR Act, 1956, the aforesaid alleged violations by the Noticee. The said proceedings of appointment were communicated to the undersigned vide Communique dated June 12, 2024.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice No. SEBI/EAD-5/AN/RG/21902/1/2024 dated July 04, 2024 along with Annexures ("SCN"), was served upon the Noticee through digitally signed email and Speed Post with Acknowledgement Due (SPAD") under Rule 4 of the Adjudication Rules and under Rule 4 of the SCR Rules, inter alia to show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee under Section 15HB, Section 15C and Section 15A(c) of the SEBI Act, 1992, and Section 23H of SCR Act, 1956, for the violations alleged to have been committed by the Noticee.

5. The allegations in respect of the Noticee inter alia brought out in the SCN are as under:

4. Findings and Observations by SEBI and alleged violations thereto in respect of the Noticee:

4.1. Finding A: Reporting and short collection of Margin:

CM: 1 Client 1 Instance
Amount of Wrong Reporting: Rs.89,43,657.57

FO: 1 Client 1 Instance
Amount of Wrong Reporting: Rs.1,01,784.89

CDS:5 Clients 5 Instances
Amount of Short Collection: Rs.50,42,257.94
Amount of Wrong Reporting: Rs.26,19,751.63

Details enclosed at Annexure F.

4.1.1. In this regard, the Noticee submitted that:
As per Annexure F of SEBI observation / findings, there are 7 instances of Wrong margin reporting / short collection for amount of Rs. 1.16 crores approx. We wish to state as follows
Out of 7 instances:
1. In one case of client code NKG255 (CM segment, 89.43 lacs) – due to technical bug shares pledged by client to MOFSL & said shares re-pledged by MOFSL to CC, both values were considered for reporting. Ideally system should have considered only pledge balance while reporting. We additionally wish to update that client had pledged 80 different scrip's in favour of MOFSL but the above error had happened only in one of the scrip.

- *In case of scrip HINDUNILVR having ISIN INE030A01027 - Client had total 7,070 shares out of which 6,260 shares are pledged with us from client's demat account 1201090004677392 and 810 shares from client's another demat account 1201090005341423.*
- *These 7,070 shares were further re-pledged by MOFSL in favour of CC in account number 1100001100020926 (NCL Pledge / Repledge Account).*
- *However due to technical bug 6,260 shares were considered twice being pledged as well as re-pledged quantity and hence total of 13,330 shares (6260 + 6260+810) were considered for margin reporting instead of 7,070 shares (6260+810). Hence, due to above mentioned system issue margin was shown as collected.*
- *DP Holding statement of customer as on date of reporting (27th April 2022) is enclosed herewith Annexure 3.1.*

- *Above system issue has been observed only in one of the case and there are no intentions of MOFSL to do incorrect reporting's. Also technical issue w.r.t. Stock consideration of this client is already rectified.*

2. In case of 3 clients H43191, MWM003 & OMM21242 (H43191 in FO segment & MWM003 & OMM21242 in CD segment, totalling to Rs. 1.12 lacs) – VaR rate considered for valuation of securities was erroneously considered for T-2 date instead of T-1 date, which resulted into excess pledge value of the same securities & led to incorrect margin reporting. Above point is rectified as on date. Detailed calculation explaining the difference in haircut of T-1 & T-2 is given in Annexure 3.2.

3. In case of remaining clients, GULE1279, GHY4732 & GHY4734 (CD segment - totaling to Rs. 26 lacs), we wish to state that these clients had Consolidated Crystallised Obligation (CCO) / MTM on T-1 day which can be collected from customer by next day i.e. T day as per prevailing regulatory guidelines (Refer NSE FAQ dated July 31, 2020, Point No. 1, enclosed as Annexure 3.3). Relevant Para is quoted below:

"In case of Currency Derivatives segment also, it is mandatory for Trading Members to collect initial margin and extreme loss margins from their client on an upfront basis. It must be ensured that all upfront margins are collected in advance of trade. Margin on consolidated crystallized obligation shall be collected from clients by T+1 day. However, in case of currency future contracts, final settlement amount shall be collected by T+2 day."

Accordingly as per above guidelines member has time till T+1 day EOD for collection of CCO / MTM of T day. We wish to add that difference in Peak margin shortage reported by MOFSL & as per Exchange is only to the extent of T-1 MTM / CCO and as per above Exchange guidelines, T-1 MTM / CCO is considered / added back for deriving the Peak margin available for T date. Accordingly after considering above T-1 MTM / CCO, Peak shortage is reported in 2 clients GHY4732 & GHY4734, which is correct methodology adopted by MOFSL.
Also we additionally wish to state that initial margin is reduced on T+1 day to the extent of CCO / MTM of T-1 day. We have enclosed Margin movement of these clients in Annexure 3.4.

Further we wish to state that in case of client GULE1279, we had short reported amount of Rs. 24,31,688 w.r.t EOD Margin Obligations & no shortage was reported w.r.t Peak Margin by adopting above mentioned logic of considering T-1 MTM / CCO whereas Peak Shortage calculation as per inspection team is Rs. 24,41,074. Hence there is a difference of only Rs.9,385.22/- between two margin requirements (EOD & Peak). In this regards, we have already paid short margin penalty on higher of the two shortages reported i.e. EOD shortage of Rs. 24.31 lacs, which we had reported to Exchange on due date.

4.1.2. In this regard, SEBI observed that:

CM Segment - 1 Client 1 Instance
Trading member has mentioned that because of the technical bug pledged quantity of shares of the client were incorrectly considered while reporting margin collection to the Exchange which has resulted in wrong reporting. Hence violation will persist.
FO - 1 Client 1 Instance
Trading member has mentioned that they have considered VaR Rate of T-2 day instead of T-1 which resulted into excess pledge value of the same securities & led to incorrect margin reporting. Hence violation still persist.

CDS – 5 Clients 5 Instances
1) In case of 2 instances, trading member has mentioned that they have considered VaR Rate of T-2 day instead of T-1 which resulted into excess pledge value of the same securities & led to incorrect margin reporting. Hence violation still persist.
2) In case of 3 instances, peak margin is incorrectly calculated by the trading member as T-1 day MTM / CCO is considered / added back for deriving the Peak margin which has resulted in wrong reporting of margin. It is to be noted that debit bill of cash segment only can be added back while calculating the peak margin and not debit bills of FO and CD segment. Hence violation will persist.

4.1.3. In view thereof, it is alleged that the Noticee has violated Clause 1, 2, 3, 4, 5 and 6 of SEBI Circular No. CIR/DNPD/7/2011 dated August 10, 2011, Clause 4.1.2 of SEBI/HO/MIRSD/DOP/CIR/P/2019/139 dated, November 19, 2019, Clause 2.1 of

SEBI/HO/MIRSD/DOP/CIR/P/2020/146 July 31, 2020, Clause 3 (xii) of SEBI/HO/CDMRD/DRMP/CIR/P/2016/80 dated September 07, 2016

4.2. Finding B:

Member has not correctly uploaded weekly data of Cash & Cash Equivalent balances in 57 instances (Annexure G).

4.2.1. Noticee in its reply to the findings of the Inspection submitted that:

"We submit that all the reporting's as a part of Enhanced Supervision submission i.e. (reporting of Holding statements, Bank Balance, Cash & Cash Equivalent reporting's & reporting's related to Monitoring of Clients Funds lying with the Stock Broker) are generated by systems and submitted thereafter to Exchanges after conducting basic due diligence.

We submit that all the reporting's as a part of Enhanced Supervision submission i.e. (reporting of Holding statements, Bank Balance, Cash & Cash Equivalent reporting's & reporting's related to Monitoring of Clients Funds lying with the Stock Broker) are generated by systems and submitted thereafter to Exchanges after conducting basic due diligence.

Annexure G of the inspection report has highlighted 68 instances where as per Inspection team Financial Ledger Balance (Clear) B is incorrect. We wish to submit that 42 out of 68 instances are incorrect observations and clear balance is correctly reported as per regulatory provisions of C&CE reporting's, details of which is given below:

Sr. No.	*MOFSL Remarks*	*No Of Instances*
1	*Exchange has incorrectly compared combined MTF and Non MTF balances reported by us in C&CE reporting against NON MTF ledgers only and hence the difference has arised*	*15*
2	*Exchange has incorrectly not reversed Open bill of MF / Cash / Currency Segment*	*11*
3	*Difference amount pertains to funds receipt from client which is un cleared on the mentioned date and hence the same has not been considered for reporting in Financial Ledger Balance (Clear) B in C&CE reporting.*	*10*
4	*Client is Institutional client which is settled through custody and hence we are not required to report the same in C&CE reporting as per guidelines*	*2*
5	*Difference is because of Auction bill which is reversed / not considered by Exchange while calculating clear ledger balance but we have considered the same in Financial Ledger Balance (Clear) - B. The mentioned auction bill is for internal shortage for which seller and buyer both are MOFSL clients and hence as per set process the bill is considered effective on same day itself unlike Exchange Auction where funds / securities settlement is done by Exchange on T+3 day.*	*3*
6	*Exchange has not considered ledger balance which we have correctly reported in C&CE reporting.*	*1*

In remaining 26 cases there are minor errors due to which there is a mismatch in ledger balance of C& CE reporting's. However all other fields in same reporting's are correctly uploaded

Sr. No.	*Remarks*	*No Of Instances*
1	*Difference is nominal because of DP charges (less than Rs. 1300/-) which was erroneously ignored in reporting of Financial Ledger Balance (Clear) - B but the same was correctly reported in Financial Ledger Balance - A and Peak Financial Ledger Balance (Clear) - B*	*19*
2	*Difference in ledger balance is due to client's investment in third party product which was erroneously not considered while reporting clear ledger balance*	*3*
3	*Difference is because of amount paid to client which was erroneously not considered while calculating clear ledger balance*	*2*
4	*Difference is because of Options Premium amount which was erroneously not considered by MOFSL while calculating clear ledger balance*	*2*

Above points are rectified as on date.

Detailed comment against all 68 instances are given in Annexure 5.1 & related supporting's for comments given in Annexure is enclosed in Annexure 5.2.

Thus, as per us there are reporting mismatches mainly in 26 instances during 45 days reviewed by Exchange. The impugned mismatches in reporting are very miniscule in terms of volume and value of reporting's made by us on daily basis. We submit that around 13 lac client's data are reported on daily basis in C& CE reporting. We additionally wish to submit that these errors are unintentional in nature and are only reporting errors that too observed in very few cases but actual balances lying with MOFSL remains unaffected and properly communicated to clients.

4.2.2. In this regard, SEBI observed that:

Out of total 68 instances, now it is observed that TM has not correctly uploaded data of Cash & Cash Equivalent Balances on a weekly basis in 57 instances (attached in Exhibit 1). Hence violation still persist for 57 instances.

4.2.3. In view thereof, it is alleged that the Noticee has violated Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

4.3. Finding C: Complaints and Arbitration (against TM):

It was observed that during the inspection period 334 complaints received on SCORES and directly from exchanges were pending with TM for more than 30 days (Annexure H).

4.3.1. Noticee in its reply to the findings of the Inspection submitted that:

The total number of stock broking complaints received & shared with inspection team during the inspection period April 2021 – June 2022 was 3309 (including the no. of opening complaints) and not 3539 mentioned in the observation letter. Below is the source wise bifurcation of complaint for your reference.

Particulars		No. of complaints (at the beginning and during inspection period)
Direct complaints		2688
Complaints to Exchanges	BSE	17
	NSE	154
	MCX	15
	NCDEX	3
Complaints to Depositories	CDSL	1
	NSDL	0
AMFI		1
SEBI		1
SCORES Complaints		429
Total		***3309***

Out of 3309 complaints, IGRP order for 64 complaints (Not 66 complaints as mentioned in inspection report) which is only 1.93% of the complaints were passed against us. At the same time it is pertinent to note that 86 IGRP orders were also passed in favour of MOFSL.
Out of 64 IGRP orders against MOFSL, 38 orders were complied, out of which 30 matters pertained to complaints other than unauthorized trade disputes such as advisory issues, closing / square off of positions, brokerage etc.. For rest of 26 cases, Arbitration was filed/ under process of filing, out of which 1 Arbitration award was in favour of MOFSL, 9 Arbitration award were against us and rest 16 Arbitrations were under process.

With respect to observation of 334 complaints were pending for more than 30 days, we wish to state as per our internal investor grievance resolution policy (Annexure 6.1), internal TAT for resolution of complaints is 7 working days and accordingly we put our best efforts to resolve the same within internal TAT. However we ensure that complaints are timely resolved within regulatory timeframe of 30 days.

We additionally wish to submit that these 334 complaints were not pending for more than 30 days. We further submit that first response in all complaints were given well before 30 days after thorough scrutiny / investigation & discussion with Client / Branch / AP. However, client/Exchanges reopens the complaints with their feedback / additional requirements to which we again respond. Due to such To-Fro communication with Client / Exchanges, the total ageing of these complaints have crossed 30 days (data of complaints as well as responses given demonstrating to & fro communication is enclosed as Annexure 6.2). Reference of the same is also mentioned in our investor grievance resolution policy – Point No. 3 Handling / Resolution of client complaint, sub para – Closure of Complaint. Extract of the same is reproduced below:
"Whenever the reply is sent to client and client does not revert back in 30 days from the date of reply, we treat the final reply date as close date. If the client reverts back after 30 days from the date of final reply then the said complaint is treated as new complaint. If the client reverts back within 30 days of our reply then the complaint is not closed and is treated as same complaint. Hence in the said process actual resolution may cross 30 days on account of such to and fro communication with client."

We also submit that out of 334 complaints, 119 complaints were received from SCORES/ Exchanges and the same were replied and handled as per the process of SCORE/Exchanges. In complaint master, we record first date when complaint was received from Exchange and also record last date when IGRC was scheduled and hence it may appear that complaint has crossed 30 days. We have also recorded all to & fro communication with Exchanges, which is under the knowledge of SEBI / Exchanges.
Further, in case of complaints received directly from customers, we are enclosing herewith few of instances as Annexure 6.3, wherein we have responded to client well within 30 days. However, client had reopened the complaint after a long gap which has resulted into crossing of total ageing of 30 days.

Accordingly we wish to submit that we have not violated Regulation 9 (e) of SEBI Stock Brokers Regulations, 1992.

4.3.2. In this regard, SEBI observed that:

TM in its reply to the observation claimed that 334 complaints were not pending for more than 30 days. TM further submit that the first response in all complaints were given well before 30 days after thorough scrutiny / investigation & discussion with Client / Branch / AP. To substantiate this TM enclosed Annexure 6.2.

Upon details study of the TM reply it can be revealed that there is no clear information available in the annexure which can demonstrate 'The First' response to the complainants. Further in absence of any further additional documentary evidence, it may be concluded that the observation of 334 complaints were pending for more than 30 days persists.

4.3.3. In view thereof, it is alleged that the Noticee has violated Regulation 9(e) of SEBI (Stock Brokers) Regulations, 1992.

4.4. Finding D:

Member is engaged as a principal or employee in a business other than that of securities involving personal financial liability.
It is observed that trading member has investments in associate companies.
Total Balance as on 31 Mar 2022 – Rs.1719.94 Crores (Annexure I)
4.4.1. Noticee in its reply to the findings of the Inspection submitted that:

"We wish to submit that Motilal Oswal Financial Services Limited ("MOFSL") is equity listed company & also holding company of Motilal Oswal Group. All subsidiary companies of MOFSL are wholly owned subsidiaries (except equity issued thru ESOPS to employees). The group is operating since 35 years and has the holding company engaged into Stock Broking and is well diversified with subsidiaries engaged into businesses like Stock broking, Distribution, Merchant banking, Wealth management, Asset Management, Private Equity, Lending against securities and Housing Finance. MOFSL has earned the following Profits and has strong Networth at both standalone and consolidated level as given in below table:

Financial Year	***Standalone Profit After Tax***	***Consolidated Profit After tax***	***Standalone Net-worth***	***Consolidated Net-worth***
20-21	*751*	*1,203*	*3,617*	*4,461*
21-22	*707*	*1,311*	*4,242*	*5,674*
Sep -22	*327*	*540*	*4,323*	*5,972*

Also MOFSL being an equity listed company since 2007, it distributes dividend to shareholders on annual basis upto 35% of the consolidated net profit as per Dividend Distribution Policy. Post distribution of dividend, MOFSL deploys its surplus profits (out of its huge amount of own funds/networth) into strategic investments like Equity Shares, Equity Mutual funds, Alternative Investments (AIF) and PMS and also in subsidiaries. Considering long term business growth & creating stakeholders value over the period, MOFSL is infusing capital in subsidiaries, which carries on business independently while ensuring highest level of governance & compliance in each of this businesses.

MOFSL as a sponsor has also invested huge amount of its free cashflows as one of the highest skin in the game into various investment products managed by its subsidiary entities. The amount of said investment is Rs. 1,101.25 Crores as on September 30, 2022.

The updated details of investment in Subsidiaries and their nature of business /regulator is given in Annexure 7.1.

Further, MOFSL while making all investments on its balance sheet has always ensured that it meets net-worth requirements as per the prescribed L C Gupta Method and has subtracted the entire investments from its net-worth computation.
We would like to highlight that all the investment in subsidiaries of MOFSL are in lines with regulatory requirements. Further, we would wish to highlight that MOFSL has made investment of Rs. 566.32 Crores in Motilal Oswal Home Finance Limited ("MOHF") which is registered with Reserve Bank of India ("RBI") as a Home Finance entity and is regulated & monitored by RBI & NHB. These investments were made from the period April 2014 till December 2018. Post December 2018, no further investment has made in this entity.

Further, MOHF is a Debt Listed entity and is highly profitable. MOHF also has a strong credit rating of Crisil AA/Stable and has robust Capital Adequacy Ratios.

Further, as per provisions of Companies Act, 2013 and SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015 ("SEBI Listing Regulations"), all transactions of MOFSL with group companies are on arm's length basis and are approved by Audit Committee. Further, for all material transactions the approval of minority shareholders is taken i.e. approval of public shareholders other than Promoters, Directors & KMPs. Also as per new requirements of SEBI Listing Regulations, all related party transactions are required to be submitted to Stock Exchanges on Half yearly basis. Thus any investment in subsidiaries are highly gove Moreover, we also wish to highlight that before merging Motilal Oswal Securities Limited (which hitherto was the stock broking entity) with Motilal Oswal Financial Services Limited in year 2018, we had taken prior approval from various regulatory/statutory authorities including approval from all the Exchanges, SEBI, Depositories, and KRA agencies. Thus all the investments done by Motilal Oswal Securities Limited in subsidiaries including Motilal Oswal Home Finance automatically became investments of MOFSL by virtue of the merger order dated July 30, 2018 approved by Hon'ble National Company Law Tribunal, Mumbai Bench.

Accordingly, above structure where Broking entity have various holding companies which are into both securities & non securities business, is approved by various regulators and hence this structure is not in violation of rule 8(1)(f) & 8(3)(f).

Without prejudice to the above, MOFSL liability is also restricted upto the investment done by it in the subsidiary and we have not assumed any personal or contingent liability and neither any corporate guarantees are issued to anyone on behalf of the subsidiaries.

4.4.2. In this regard, SEBI observed that:
All the investments which trading member has are in associate companies who are not into the business of securities market. Hence, violation still persists.

4.4.3. In view thereof, is it alleged that the Noticee has violated Rule 8 (3) (f) of the Securities Contract (Regulation) Rules, 1957.

4.5. ***Finding E: Margin Trading Funding***

Trading member has incorrectly reported MTF Collaterals to the Exchange:- 5 clients 5 instances (Rs.39.65 crores).

Sr. No.	Date	Client Code	Client PAN	Securities value as reported by TM under MTR file	Securities value as per DP Holding Statement	Difference
1	11-11-2021	PWM0023	AKYPB9555B	-	5,44,14,995.00	5,44,14,995.00
2	28-12-2021	GHY5072	AAWCS5681E	-	5,80,57,048.00	5,80,57,048.00
3	06-12-2021	H18772	APDPS1642A	-	5,46,81,659.00	5,46,81,659.00
4	04-11-2021	ZHN343	AANFN8501A	2,87,70,146.06	22,17,27,029.00	19,29,56,882.94
5	08-10-2021	GYFS533	AGUPK6799G	-	3,64,19,029.00	3,64,19,029.00
TOTAL				2,87,70,146.06	425299760.00	39,65,29,613.94

4.5.1. Noticee in its reply to the findings of the Inspection submitted that:

"As a process, we are reporting allocated collaterals towards MTF segment to Exchanges as a part of MTF reporting. In these 5 instances, wherein Exchange has observed mismatch in collateral reporting, we wish to state that margin compliance was always ensured and there were sufficient margins with MOFSL for MTF position of these customers mentioned in inspection report. Details of MTF Margins as well as collaterals available with MOFSL demonstrating margin compliance are mentioned in Annexure 8.1. The cases which were observed by inspection team

on 5 days of 2021 wherein required collaterals which were considered for clients MTF positions were not reported to Exchange by MOFSL was due to error and the same is already rectified in February 2022 and hence the similar instances were not observed by inspection team post 2022 as the inspection period was till 30th June 2022.

Also we wish to highlight that non reporting of collaterals across above 5 days / clients is not to the extent of Rs. 39.65 crores as mentioned in the inspection report but it is to the extent of Rs. 10.05 crores only as explained below:

Particulars	***Amount***
Total Securities pledged in favour of MOFSL by Client for all segments	*42,52,99,760*
Allocated for MTF segment – (A)	*18,40, 20,686*
Securities reported in MTF reporting to Exchange – (B)	*8,34,51,805*
Securities not submitted in MTF reporting to Exchanges (A-B)	*10,05,68,880*

Client wise details of above figures are given in Annexure 8.1.

We once again wish to reiterate that the observation is only for non-reporting of collaterals which were available with MOFSL for clients MTF positions. However margin compliance requirement as per MTF regulatory guidelines was always observed. Hence this was merely a reporting error, which is also rectified."

4.5.2. In this regard, SEBI observed that:

Trading member has mentioned that collaterals which were considered for clients MTF positions were not reported to Exchange due to error. Hence there is incorrect reporting of MTF Collaterals to the Exchange and Trading member has also accepted that the observation is only for non-reporting of collaterals in his reply. Therefore, violation will persist.

4.5.3. In view thereof, it is alleged that the Noticee has violated Clause 19 of SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 and NSE circular NSE/COMP/35125 dated June 15, 2017 & NSE/COMP/35260 dated June 30, 2017, NSE/INSP/43069 dated December 31, 2019, NSE/INSP/43724 dated March 02, 2020, NSE/INSP/45191 dated July 31, 2020 and NSE/COMP/48531 dated June 09, 2021 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

4.6. Finding F: Member has transferred to "Client unpaid securities account" those securities which are pertaining to credit balance clients

Trading Member has transferred securities of Credit balance client to "Client unpaid securities account"

801 ISIN, Quantity: 5.37801 lakhs, Value: Rs 8.62 Crores of 3574 clients (Annexure J).
4.6.1. Noticee in its reply to the findings of the Inspection submitted that:

"We wish to state that stocks are held in Client Unpaid Securities Account (CUSA) for customers against their ledger balance and / or Margin requirements on their open positions. Hence the customers mentioned in Exhibit may have their credit balance in ledger but has margin requirements as well which has resulted into overall debit and hence stocks are correctly held in Client Unpaid Securities Account (CUSA).

We wish to further state that as per SEBI circular dated June 20, 2019 (enclosed as Annexure 9.1), securities which are not paid in full can be transferred to CUSA. Extract of the same is reproduced below:
"With regard to securities that have not been paid for in full by the clients (unpaid securities), a separate client account titled – "client unpaid securities account" shall be opened by the TM/CM. Unpaid securities shall be transferred to such "client unpaid securities account" from the pool account of the concerned TM/CM."
Accordingly we have correctly held securities of credit balance clients who were also having margin requirements due to which customer was in debit on an overall basis and hence it was essential to hold the stock in CUSA for risk management purpose. We wish to state that total indebtedness of a client towards member includes both ledger balance as well as margins. Details of clients after plotting margin requirement is enclosed as Annexure 9.2, which indicates total indebtedness of clients towards MOFSL as customers are in debit on an overall basis and hence stocks are correctly held in CUSA.

We further wish to add that NSE circular dated September 28, 2020 enclosed as Annexure 9.3 allows the stocks held in CUSA for collection and reporting of Margins and hence this confirms that we can held stock in CUSA towards customer's margin requirements as well.
Extract of the Circular is quoted below:
"Securities received in pay out and available in CUSA account (reduced by the appropriate haircut subject to minimum 20%) after adjusting any debit balances in client ledger shall be considered for collection and reporting of margin."
However we further wish to add that although stocks are held in CUSA, we are complying with CUSA norms for time period for which stock can remain there, as if client do not clears his debits we are transferring the securities to the demat account of the respective client in accordance with our RMS policy or liquidates the same in market within five trading days after the pay-out received from Exchanges.
Hence we have complied with CUSA norms as explained above.

4.6.2. In this regard, SEBI observed that:

It was observed that there are securities lying in the CUSA account of Credit balance clients. Trading member has mentioned that stocks are held in Client Unpaid Securities Account (CUSA) for customers against their margin requirements on their open positions. This is not in line with guidelines of the Exchange. Hence violation persist.

4.6.3. In view thereof, it is alleged that the Noticee has violated Clause 4.1 and 4.3 of SEBI circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 and NSE NSE/INSP/41359 dated7 June 20, 2019, NSE NSE/INSP/42000 dated August 29, 2019, NSE/INSP/42052 dated September 04, 2019 and NSE/INSP/42229 dated September 27, 2019 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

4.7. Finding G: Investor Grievances (against DP)
It was observed that during the inspection period 26 complaints received directly from depositories were pending with TM for more than 30 days (Annexure L).
Summary of complaints is given as under:

Particulars		No. of complaints (at the beginning and during inspection period)
Direct complaints		290
Complaints to Depositories	CDSL	447
	NSDL	32
Total		769

4.7.1. Noticee in its reply to the findings of the Inspection submitted that:
With respect to observation of 26 DP related complaints pending for more than 30 days, we wish to state as per our internal investor grievance resolution policy as given in Annexure 6.1, internal TAT for resolution of complaints is 7 working days and we put our best efforts to resolve the same within internal TAT. However we ensure that complaints are timely resolved within regulatory timeframe of 30 days.

We additionally wish to state that With respect to observation of 26 complaints were pending for more than 30 days, we wish to state they were not pending for more than 30 days. We further submit that first response in all complaints were given well before 30 days. However, client reopens the complaints with their feedback / additional requirements to which we again respond. Due to such To-Fro communication with client, the total ageing of these complaints have crossed 30 days (data of complaints as well as responses given demonstrating to & fro communication is enclosed as Annexure 12.1. Reference of the same is also mentioned in our investor grievance resolution policy – Point No. 3 Handling / Resolution of client complaint, sub para – Closure of Complaint. Extract of the same is reproduced below:

"Whenever the reply is sent to client and client does not revert back in 30 days from the date of reply, we treat the final reply date as close date. If the client reverts back after 30 days from the date of final reply then the said complaint is treated as new complaint. If the client reverts back within 30 days of our reply then the complaint is not closed and is treated as same complaint. Hence in the said process actual resolution may cross 30 days on account of such to and fro communication with client."

Further, in case of complaints received directly from customers, we are enclosing herewith few of instances as Annexure 12.2, wherein we have responded to client well within 30 days. However, client had reopened the complaint after a long gap which has resulted into crossing of total ageing of 30 days. Also we report such complaints wherein ageing of the complaint has crossed 30 days on account of to & fro communications with client in our monthly BO Grievance submission to Depositories as well. Sample such correspondence is mentioned in Annexure 12.3. Hence we have intimated the same to Regulators as well, to which they have never raised any concerns.

Accordingly we wish to submit that we have not violated Regulation 9 (e) of SEBI Stock Brokers Regulations, 1992.

4.7.2. In this regard, SEBI observed that:

DP in its reply to the observation claimed that 26 complaints were not pending for more than 30 days. DP further submit that the 'First Response' in all complaints were given well before 30 days and to substantiate this DP enclosed Annexure 12.1.

Upon verification it was revealed that there is no clear information available in the annexure which can demonstrate 'First Response' to the complainants. Further in absence of any further additional documentary evidence, it may be concluded that the observation with respect pendency to of 26 complaints for more than 30 days still persists.

4.7.3. In view thereof, it is alleged that the Noticee has violated Regulation 72(1) of SEBI (Depositories and Participants) Regulations, 2018.

4.8. Finding H: Improper maintenance of Bank Books:

Following discrepancies were observed: -
1) It was observed that narrations of the transactions are not correctly captured in the bank books.
2) Headers of the bank books are incorrect - payments entries were entered under the receipt column and receipt entries were entered under the payment column.
3) Single voucher number is mapped to multiple entries
Details in Annexure 2 & 2A.

4.8.1. Noticee in its reply to the findings of the Inspection submitted that:

"Our response for observation on narrations not captured correctly in bank books, and incorrect headers in bank books are already covered in response to observation No. 1 as mentioned above in Para reference no. 1.2. Also we have taken necessary corrective actions so that correct information is fetched from bank books.

W.r.t single voucher number mapped to multiple entries, we wish to state that in majority instances payment is received from custodian through one UTR number which is allocated in back office against their various institution account / sub accounts / group accounts and hence common voucher number has appeared against these transactions in bank books. Further in our back office software, voucher number is created based on combination of Financial Year, *Segment (CM/FO etc), Voucher type (Receipt / Payment) and Bank book code (across multiple bank accounts) & Book Type. For this combination, system generates unique voucher number. We have explained above by plotting the logic of common voucher number in sample cases in Annexure 2.1.*

Accordingly there is no concern if common voucher number is generated across various banks / segments etc. Also said practice is consistently followed since long and we have not faced any operational / regulatory concerns in the same.

4.8.2. In this regard, SEBI observed that:

Since the trading member has accepted the violation, violation still persist.

4.8.3. In view thereof, it is alleged that the Noticee has violated Regulation 17 of SEBI (Stock Brokers) Regulations, 1992.

4.9. Finding I: Analysis of settlement of funds of inactive clients:

1) It was observed that the TM while setting aside funds of Rs.3.50 crore belonging to 39 active clients, has shown incorrect reasons viz non-availability of client's bank account and non-traceability of client.

2) With respect to one inactive client having UCC no. BPA132, it was observed that TM has settled client's funds by making a journal entry in NON-MTF account instead of making direct payout to the client's account.

Details at Annexure 3, 4 and 5.

4.9.1. Noticee in its reply to the findings of the Inspection submitted that:

W.r.t observation of SEBI, wherein it has been stated that in 39 customers, MOFSL has set aside funds where reasons such as non availability of clients bank account and non-traceability of client does not exist. In this regards we wish to state that we have a set system based process of quarterly settlement of active as well as inactive clients where system identifies the eligible customers and calculates the funds to be released. On the basis of the same, MOFSL processes the payout of funds to clients registered bank account. If in case the payout is not processed / rejected by bank for any of the reason such as bank account freezed / closed/ inactive / not available etc. we park such funds in separate bank account in accordance with BSE Notice No. 20200210-47 dated 10th February 2020. Sample Bank Statements & Client ledgers to depict the rejection by bank is enclosed in Annexure 3.1. Hence we wish to confirm that we have parked the funds correctly in separate bank account only when client's bank account was not in active status. We would like to state that there were approx. 20,000 customers as on 30th June 2022 whose funds were set aside where SEBI has noted above observation only in 39 customers out of which 3 customers (OMBL0689, PDMT0037 & XTA4893) have not traded on dates mentioned in SEBI Observation letter. Client ledgers of these three customers for the month of June 2022 is enclosed as Annexure 3.2

Thereafter upon rejection by bank, we intimate the customers to register / modify their bank account and also share e-modification link so that new bank can be instantaneously mapped so as to settle the customer. Hence as per above circular we have made all efforts to trace the customer so as to settle their funds. Sample communications sent to customers are enclosed as Annexure 3.3.

Once the customer registers / updates new bank account, funds are released from set aside bank account and released to customer to settle his account.

It is only that these customers have executed trades post transferring of funds to set aside bank account, SEBI has alleged that MOFSL has incorrectly set aside funds of these customers and not settled the same. In this regards we wish to state that trades were largely allowed to square off their existing positions as there is no clear guideline stated in circular specifically to disallow trades of such customers whose funds are separately parked. Hence we reiterate that we have set aside funds of clients who were not settled due to invalid / inactive / non availability of bank accounts in accordance with prevailing guidelines as mentioned in notice no. 20200210-47 dated 10th February 2020. We further wish to update that all 39 clients mentioned in SEBI observation *letter are settled post inspection and funds were released from set aside bank account. Client ledgers of 39 customers are enclosed as Annexure 3.4 to demonstrate the settlement.*

To summarise, we have a process in place to separately park the funds as explained above and we have implemented the process of not allowing fresh trades in customer accounts whose funds are separately parked due to rejection / non availability of Bank Accounts.

3.3.2 W.r.t observation of settlement of one client Vinita Yadav having client code BPA132 wherein client was settled on 4th July 2022 by making a journal entry in Non MTF account instead of making a direct payout to client account, which is not in accordance with clause 5(3) of SEBI circular SEBI / HO/ MIRSD/ DOP/P/CIR/2021/577 dated June 16, 2021.

In this regards we wish to state that inspection period is from 1st April 2021 to 30th June 2022 and the observation is of 4th July 2022 i.e. post inspection period. Client was activated on 25th February 2022 and was not required to settle for first 3 months as per regulatory guidelines if the client was active. Client was active in the month of March & April 2022 as the client had executed transactions. Thereafter client was settled on 25th May 2022. Retention letter is enclosed as Annexure 3.5. Further attempt to settle the client was made on 25th June 2022 by issuing the payout of Rs. 26,81,822.37. However as the payout was not processed and was rejected by bank, funds were separately parked in designated bank account.

We further wish to update that client has also availed MTF facility and post inspection period on 4th July 2022, Client had closed his MTF positions in one of the scrip Shalimar Paints and hence as per process, equivalent MTF debit was shifted to normal cash segment. As the quarterly settlement process is completely system driven, on account of resultant debit balance in Non MTF segments due to MTF position closure, client was marked settled. We wish to also add that we have not passed any random journal entry to avoid settlement. As and when positions are taken / closed, entries are correctly passed between MTF & Non MTF segments well within provisions of regulatory guidelines and the above entry on 4th July 2022 is one such entry supported by actual transactions. Necessary supporting's as to Client ledger, MTF Positions as on 3rd & 4th July 2022 depicting closure of position of Shalimar Paints & DP statements demonstrating that Securities were unpledged and released to clients demat account on 4th July 2022 due to closure of MTF position is enclosed as Annexure 3.6, 3.7 & 3.8 respectively. Accordingly client was correctly settled on 4th July 2022 due to resultant debit as explained above.

We wish to state reiterate that we have a system driven settlement process which takes care of all the regulatory requirements. We have a process in place to settle large number of customers on daily basis. Resultant funds are transferred to client's bank account. Also post reconciliation mechanism is built. Accordingly MOFSL has taken various steps to ensure compliances related to monthly / quarterly settlement of clients. MOFSL has released funds of approx. Rs. 2389 crores as a part of quarterly settlement process during the inspection period. Hence there are no intentions of MOFSL to avoid settlement. Above one customer is correctly settled.

4.9.2. In this regard, SEBI observed that:

During analysis of information w.r.t inactive client and set aside funds, provided in cash & cash equivalent, we have observed with respect to 39 clients of amounting to Rs. 3.50 Crore (detail attached at Annexure 4 in CD), TM has set aside the funds of clients where reasons such as non-availability of client's bank account and non-traceability of client does not exist, which is not in accordance with the Notice No 20200210-47 dated 10, February 2020.

In case of Vinita Yadav (BPA132), it was observed that on 4th July 2022, the debit balance of MTF was transfer to Non-MTF ledger on account of closure of MTF position. Subsequently the account was marked as settled by sending the retention statement on 4th July 2022. As per FAQ on MTF it is clearly clarified that Any transfer of balances from non-MTF ledgers to MTF ledgers undertaken with a view to avoid the actual settlement requirements will not be permitted.
Thus, the reply of the member may not be acceptable and therefore violation persists.

4.9.3. In view thereof, it is alleged that the Noticee has violated Clause 12(e) of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and BSE Notice No 20200210-47 dated 10, February 2020 read with Clause A(5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992; Clause 5.3 of SEBI circular SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

6. No reply to the SCN was received within the stipulated time limit of 14 days allowed as per the SCN. Subsequently, vide email dated July 19, 2024, the Noticee sought extension to submit the reply to the SCN.

7. In the interest of Principles of Natural Justice, vide Hearing Notice dated July 25, 2024, the Noticee was provided an opportunity of hearing on August 07, 2024 and the Noticee was advised to submit the reply to SCN atleast 2 working days prior to the scheduled date of hearing.

8. Vide letter dated August 05, 2024, the Noticee submitted its reply to the SCN as below:

"…

6. The submissions of MOFSL in respect of each head of violation alleged against it are hereunder.

I. FINDING A: REPORTING AND SHORT COLLECTION OF MARGIN

7. During the Inspection, SEBI has observed that MOFSL has incorrectly collected and / or reported margin to exchange in Cash Market, F&O, and Currency Derivate Segment in:

(i) CM Segment – Wrong reporting in 1 instance for 1 client amounting to Rs. 89,43,657.57/-
(ii) F&O Segment - Wrong reporting in 1 instance for 1 client amounting to Rs. 1,01,784.89/-
(iii) CD Segment - Wrong reporting in 5 instances for 5 clients

CM Segment – UCC NKG255

8. It is submitted that the client had pledged 7,070 shares of HINDUNILVR with MOFSL of which 6,260 shares were pledged from demat account 1201090004677392 and 810 shares from demat account 1201090005341423. These 7,070 shares were further re-pledged by MOFSL in favour of Clearing Corporation in account number 1100001100020926 -NCL Pledge / Repledge Account.

9. It is submitted that due to a technical issue, 6,260 shares pledged by client to MOFSL and subsequent pledging of the shares by MOFSL with the Clearing Corporation have been considered twice together with 810 shares and therefore a total of 13,330 shares were inadvertently considered for margin reporting instead of 7,070 shares.

10. It is respectfully submitted that the error in the reporting of MOFSL was purely accidental as this issue was noted in only one instance and there is no intent of MOFSL to carry out any incorrect reporting. In any event, the stock consideration for the concerned client had been rectified and therefore no prejudice or liability is caused to the client.

FO Segment – UCC H43191 and CD Segment – UCCs MWM003 and OMM21242

11. It is submitted that in case of the concerned clients above, the VaR rate considered for valuation of securities was erroneously considered for T-2 date instead of T-1 date thus resulting in excess pledge value of the securities.

12. It is respectfully submitted that the same is a calculation error and was not an intentional misreporting by MOFSL and the same had been rectified by MOFSL.

CD Segment – UCCs GULE1279, GHY4732 and GHY4734

13. It is submitted that as per exchange guidelines pertaining to currency derivatives segment, Consolidated Crystallized Obligation (CCO) / MTM on T-1 day can be collected from the client on the T day. Reliance is placed on NSE FAQ dated July 31, 2020, as under:

"In case of Currency Derivatives segment also, it is mandatory for Trading Members to collect initial margin and extreme loss margins from their client un an upfront basis. It must be ensured that all upfront margins are collected in advance of trade. Margin on consolidated crystallized obligation shall be collected from clients by T+1 day. However, in case of currency future contracts, final settlement amount shall be collected by T+2 day."

14. In view of the above guidelines, MOFSL had computed peak margin shortage of GHY4732 and GHY4734 by computing the ledger balance and including MTM / CCO obligations of T and T-1. It is submitted that while there was shortage which was duly reported in case of GHY4732 and GHY4734, the difference between peak margin shortage as reported by MOFSL and as per exchange is only to the extent of T-1 MTM / CCO which was considered by MOFSL and added back for deriving peak ledger balance for computation of peak collaterals available on T day as per exchange guidelines. Accordingly, after considering T-1 MTM / CCO, MOFSL has correctly reported peak margin shortage in these two client accounts by adopting the correct methodology.

15. In case of GULE1279, it is submitted that admittedly MOFSL had only reported EOD Margin shortage and not Peak Margin shortage as the former was higher of the two. Without prejudice to the above, however, the difference between the EOD reporting of Rs. 24,31,688.78/- as per calculations of MOFSL and the Peak reporting of Rs. 24,41,074/- as per inspection team is Rs. 9,385.22/-. In any event, MOFSL has already paid short margin penalty on higher of EOD / Peak margin shortage as per regulatory guidelines.

16. It is submitted that client wise comments of MOFSL in respect of each of the alleged violations are enclosed herewith as Annexure – 1.

17. It is respectfully submitted that the above are only a handful of otherwise accurate reporting by MOFSL and the same are a result of either technical issues or slight differences in understanding the scope of the compliance requirement. MOFSL has taken on board the observations of SEBI and shall improve its reporting processes. We, therefore, submit that no penal action is warranted in this regard.

II. FINDING B: WEEKLY DATA OF CASH AND CASH EQUIVALENTS BALANCES IN 57 INSTANCES INCORRECTLY UPLOADED

18. SEBI has observed that MOFSL has not correctly uploaded weekly data of Cash & Cash Equivalent balances in 57 instances in violation of SEBI Circular dated September 26, 2016.

19. At the outset, MOFSL submits all the reporting as a part of Enhanced Supervision submission i.e., reporting of Holding statements, Bank Balance, Cash & Cash Equivalent reporting & reporting related to Monitoring of Clients Funds lying with the Stock Broker based on data generated by systems and after conducting basic due diligence.

In this regard, it is submitted that under this head of allegation, while SEBI has identified 57 instances of incorrect reporting, in case of 25 out of the 57 instances, SEBI's allegation is entirely incorrect, and the balance is correctly reported as per provisions of Cash & Cash Equivalent reporting. It is submitted that in such cases, SEBI has not considered the following factors as a result of which differences have arisen:

Sr. No.	***MOFSL Remarks***	***No. of instances***
1	*Exchange has incorrectly not reversed Open bill of MF / Cash / Currency Segment*	*11*
2	*Exchange has incorrectly compared combined MTF and Non MTF balances reported by us in C&CE reporting against NON MTF ledgers only and hence the difference has arisen*	*8*
3	*Difference amount pertains to funds receipt from client which is un cleared on the mentioned date and hence the same has not been considered for reporting in Financial Ledger Balance (Clear) B in C&CE reporting*	*2*
4	*Client is Institutional client which is settled through custody and hence we are not required to report the same in C&CE reporting as per guidelines*	*2*
5	*Difference is because of Auction bill which is reversed / not considered by Exchange while calculating clear ledger balance but we have considered the same in Financial Ledger Balance (Clear) - B. The mentioned auction bill is for internal shortage for which seller and buyer both are MOFSL clients and hence as per set process the bill is considered effective on same day itself unlike Exchange Auction where funds / securities settlement is done by Exchange on T+3 day.*	*1*
6	*Exchange has not considered ledger balance which we have correctly reported in C&CE reporting.*	*1*

Further in case of 6 out of the 57 instances, SEBI's allegation is partially correct and error in balance reported in Cash & Cash Equivalent reporting is only w.r.t DP charges which is nominal *in nature in range of Rs.35 to 1,371 and was erroneously ignored while reporting Financial Ledger Balance (Clear) – B. Table and remarks for 6 instances are mentioned in Annexure - 2.*

20. It is submitted that, whereas, in the remaining 26 instances, there are minor errors due to which there is a mismatch in ledger balance of Cash & Cash Equivalent reporting.

Sr. No.	MOFSL Remarks	No. of instances
1	Difference is nominal because of DP charges (less than Rs. 1300/-) which was erroneously ignored in reporting of Financial Ledger Balance (Clear) - B but the same was correctly reported in Financial Ledger Balance - A and Peak Financial Ledger Balance (Clear) - B	19
2	Difference in ledger balance is due to client's investment in third party product which was erroneously not considered while reporting clear ledger balance	3
3	Difference is because of amount paid to client which was erroneously not considered while calculating clear ledger balance	2
4	Difference is because of Options Premium amount which was erroneously not considered by MOFSL while calculating clear ledger balance	2

21. It is submitted that 26 actual mismatches in reporting is a miniscule sum in terms of volume and value of reporting as MOFSL carries out reporting in respect of 13 Lakh clients' data on a daily basis. Further these errors are neither intentional nor malicious in nature and are only reporting errors whereas actual balances lying with MOFSL remain unaffected and properly communicated to clients.

III. FINDING C: COMPLAINTS AND ARBITRATION AGAINST TM

22. SEBI has alleged that during the inspection period, 334 complaints received on SCORES and directly from exchanges were pending with MOFSL for more than 30 days.

23. At the outset, it is stated that out of the 334 complaints noted during the inspection, only 119 complaints were received from SCORES / exchange whereas the remaining complaints were received directly from the clients. Without prejudice to the same, in respect of the allegation itself, it is submitted that MOFSL denies that the same were pending for more than 30 days and the submissions of MOFSL in respect of the inspection observations has not been adequately considered while framing this allegation in the SCN.

24. It is submitted that as per our internal Investor Grievance Resolution Policy, the internal turn-around-time to respond to the complaints is 7 working days, however, every effort is made to ensure that the complaints are resolved within 30 days.

25. It is submitted that the purported delay / pendency noted by the inspection team is a consequence of multiple correspondences and back and forth with client / exchange as the case maybe as a result of which the ageing of these complaints are seen has having crossed 30 days.

It is submitted that in each of the 334 instances, the first response in all complaints were given by MOFSL well within the 30 day period, however, when multiple correspondences are exchanged, these complaints exceed the 30 day period.

26. It is pertinent to state and clarify that as per our Investor Grievance Resolution Policy, in the event there is no response by a client to MOFSL's response within 30 days, the same is treated as closed and any response after a period of 30 days is treated as a separate complaint. Accordingly, in our complaint master, we have recorded the first date when the complaint was received and also the date when the first response has been provided by MOFSL and any delay / pendency is in such cases where the complaint has been responded to after 30 days and therefore reopened.

We are once again enclosing details of 26 complaints clearly segregating date of first response to client which demonstrates that the same was filed within 30 days of receipt of complaint. Ageing of complaint receipt date and First response date which is calculated in column 'G' of excel file given in Annexure - 3 i.e. 'Ageing for First Response', clearly demonstrates that ageing has never crossed more than 30 days. Also we are enclosing sample client complaints documentation depicting all correspondence including first response date. These are enclosed herewith as Annexure - 3.

27. It is, therefore, respectfully submitted that there is no violation of the Stock Brokers Regulations.

IV. FINDING D: ENGAGING AS A PRINCIPAL OR EMPLOYEE IN A BUSINESS OTHER THAN THAT OF SECURITIES INVOLVING PERSONAL FINANCIAL LIABILITY.

28. SEBI has observed that MOFSL has investments in associated companies to the tune of Rs. 1719.94 Crores and therefore it is alleged that MOFSL has violated Rule 8(3)(f) of the SCRR.

29. At the outset, it is submitted that a plain reading of the SCRR makes it evident that the said provisions merely restricted trading members from conducting any business other than that of securities or commodity derivatives. As such, the legislative intent behind the SCRR is not to stymie and/ or dictate operational decisions such as use of its own surplus funds or restrict strategic investments into a group subsidiary and so long as a trading member can demonstrate its ability to meet its statutory obligations and a higher credit balance i.e., a position 'G' value, a trading member is free to avail commercial opportunities.

30. In this regard, the Hon'ble Securities Appellate Tribunal ("SAT") in Jitendra Pukhraj Jain vs. National Stock Exchange of India Ltd. (Order dated November 17, 2020 in Appeal No. 390 of 2020) has observed the following in regard the intention of Rule 8(3)(f) of the SCRR:

> *7. Having heard the learned counsel for the parties, and having perused details of the particular violation on which the appellant has sought leniency, we note that Rule 8(3)(f) of the Securities Contracts (Regulation) Rules, 1957 imposes restrictions on the members of*

Exchange from conducting any business other than in securities. Hence the finding in the impugned order that by giving loans to other entities, including employees/ family members of the appellant, the appellant has violated the said Rule 8(3)(f) of the Securities Contracts (Regulation) Rules, 1957. We also note that the intention behind the said provision is to prevent negative impact on the balance sheet of a broker and to maintain the safety and integrity of the securities trading eco system.
[Emphasis supplied]

31. Furthermore, the scope of the restrictions under the SCRR are further evident from NSE's own circulars. It is submitted that NSE Circular dated January 7, 2022, bearing reference no. NSE/COMP/50957 ("NSE Circular 1"), for the first time, provided an illustrative list of such activities which included investment into a subsidiary as a prohibited activity which may be considered as violation / non – adherence of the SCRR Rules as below:

10. Investments made in group companies such as subsidiaries & associates etc., not in connection with or incidental to or consequential upon the securities/ commodity derivatives business. (Ex: Investment in companies engaged in other businesses such as NBFC, Real Estate etc.).

32. This issue came to be subsequently clarified by NSE vide NSE Circular dated September 22, 2022, bearing reference no. NSE/COMP/53802 ("NSE Circular 2") as below:

"Members may form a subsidiary company, with prior approval of the Exchange, for undertaking other businesses which are considered useful or necessary for the functioning/development of capital markets"

"It shall be noted that such investments may be made only from own / proprietary funds and clients funds shall not be used under any circumstances"
[Emphasis supplied]

33. The intent and objective of Rule 8(3)(f) of SCRR, as elaborated in the NSE Circulars 1 and 2, therefore, was to ensure that trading members engaged in the business of securities do not enter into any unwarranted transactions like inter - alia entering to loan agreements with clients/ entities, collecting money in the form of deposits or otherwise, offering fixed / guaranteed / periodic returns in contravention of SCRR in order to prevent misuse of client funds and ensuring that the same are not diverted by trading members for their own personal use.

34. With the above context, it is submitted that as part of strategic decision, MOFSL deploys its surplus profits (out of its own funds/ net-worth) into strategic investments. Considering long term business growth & creating stakeholders value over the period, MOFSL infuses capital in its subsidiaries, which carries on business independently while ensuring highest level of governance & compliance in each of this businesses. MOFSL as a sponsor has invested huge amount of its *free cashflows into various investment products managed by its subsidiary entities to the tune of Rs. 1,101.23 Crores.*

35. It is submitted that investments of MOFSL into MOFL and MOHFL were done in consonance with the prevailing understanding of the implied restrictions under the SCRR as well as in line with regulatory requirements. All transactions of MOFSL with group companies are on an arm's length basis and are approved by Audit Committee of MOFSL. Further, for all material transactions the approval of minority shareholders is duly taken and as per new requirements of SEBI Listing Regulations, all related party transactions are required to be submitted to the exchanges on half yearly basis. It is, therefore, any such investment in subsidiaries are highly governed under various regulatory requirements.

36. It is also submitted that MOFSL while making all investments on its balance sheet has always ensured that it meets net-worth requirements as per the prescribed L C Gupta Method and has subtracted the entire investments from its net-worth computation. Furthermore, MOFSL has always maintained a positive 'G' value and has sufficient funds to honour financial obligations towards its clients as well as the Stock Exchange and Clearing Corporation, as is amply evident from the mandatory disclosures made by MOFSL from time to time.

37. Without prejudice to the above, MOFSL liability is also restricted up to the investment done by it in the subsidiary as MOFSL has not assumed any personal or contingent liability and it has not given any corporate guarantees to anyone on behalf of the subsidiaries. It is submitted that there is no question of any personal liability of MOFSL in respect of these investments.

38. For completion of the above submission, reliance is placed on the SAT which, in its order in Magnum Equity Broking Ltd. vs. National Stock Exchange of India Ltd. (Order dated November 29, 2023 in Appeal No. 461 of 2022), has once again reiterated that investment of surplus funds of a member cannot lead to an inference that a member is engaged as a principal in business other than that of securities involving personal financial liability. The relevant portion of the order is extracted below:

> *10. In our view, investment of surplus funds, generated as a consequence of securities business, with an NBFC registered with RBI cannot lead to an inference that the Appellant is engaged as a principal in business other than that of securities involving personal financial liability. The Respondent Committee given a clear finding that the funds were advanced from the account of the Appellant therefore there is no dispute that the funds were their own moneys. There is nothing on record to indicate that this transaction was a loan whereas the agreement dated January 1, 2019 between the Appellant and V.J. Finvest indicates that it was for investment of funds as inter-corporate deposits.*
> *[Emphasis supplied]*

39. In the present case, MOFSL has, from time to time, taken a strategic decision to invest in its subsidiaries by only utilizing its surplus funds and it is submitted that these funds were neither *client funds nor raised from external sources. Therefore, there is no violation of Rule 8(3)(f) of the SCRR.*

V. FINDING E: MARGIN TRADING FUNDING

40. SEBI has alleged that MOFSL has incorrectly reported MTF Collaterals to the Exchange in 5 instances amounting to Rs. 39.65 Crores.

41. It is submitted that MOFSL, as a process, duly reports allocated collaterals towards MTF segment to Exchanges as a part of its MTF reporting. However, in case of these 5 instances, due to clerical error, required collateral which were considered by MOFSL for the concerned client's MTF position was not reported. In any event, it is submitted that the issue stood rectified by MOFSL as of February 2022 and no other instances were noted by the inspection team for the whole of the Inspection Period.

42. It is necessary to state and clarify that the present case is only of misreporting of collateral which was available with MOFSL and not availability of adequate collateral as the margin compliance requirements as per the regulatory guidelines are duly observed by MOFSL. It is submitted that there were sufficient margins with MOFSL for MTF position of the concerned clients, details of which are enclosed herewith as Annexure - 4.

43. It is also pertinent to clarify that the quantum of non – reporting of collateral in respect of the 5 instances is not to the extent of Rs.39.54 Crores as mentioned in SCN but Rs.10.05 Crores as seen below:

Particulars	***Amount***
Total securities pledged in favour of MOFSL by client for all segments	*42,52,99,760*
Securities allocated for MTF Segment	*18,40,20,686*
Securities reported in MTF reporting to Exchange	*8,34,51,805*
Securities not reported in MTF reporting to Exchange	*10,05,68,880*

Client wise details of the above figures are enclosed herewith as Annexure - 4.

VI. FINDING F: SECURITIES OF CREDIT BALANCE CLIENTS TRANSFERRED TO "CLIENT UNPAID SECURITIES ACCOUNT" BY MOFSL

44. During inspection, SEBI has observed that MOFSL has transferred securities of credit balance clients to Client Unpaid Securities Account ("CUSA") of 3,574 clients amounting to Rs.8.62 Crores in violation of SEBI Circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019, and accompanying NSE Circulars.

45. At the outset, it is submitted that vide the above SEBI Circular, SEBI had directed trading members to open CUSA. Ordinarily trading members shall transfer the securities to their client accounts within one day of receiving payment, however, the above account is to be utilized with regard to securities that have not been paid in full by the clients. The procedural directive in this regard is as under:

> *i. Unpaid securities to be moved from the pool account to the CUSA.*
>
> *ii. Securities lying in CUSA shall be either transferred to the demat account of the respective client account (upon fulfillment of client obligation) or shall be disposed off by the members within 5 trading days after the pay-out.*
>
> *iii. In case securities are kept in CUSA beyond 7 trading days after the payout, the depositories shall levy penalty on the member.*

46. It is submitted that, effectively, in case of unpaid securities by clients, MOFSL is empowered to transfer the same into CUSA to be retained for a maximum period of 7 days.

47. It is submitted that instances in respect of 3,574 clients highlighted in the SCN pertain to those cases where the shares were retained until fulfilment of client obligation in respect of ledger balance and / or margin obligation on their open positions. Pertinently, MOFSL only holds the securities in CUSA are per the timelines prescribed following which the securities are either transferred to client demat accounts after compliance of obligation or liquidated in the market. Accordingly, we have correctly held securities of credit balance clients who were having margin obligations due to which the client was in debit on an overall basis and hence it was essential to hold the stock in CUSA for risk management purpose. Details of clients' indebtedness after plotting margin requirement is enclosed Annexure - 5.

48. It is, therefore, submitted that the MOFSL has correctly dealt with the client securities while transferring into CUSA and therefore there is no violation as alleged in the SCN.

VII. FINDING G: INVESTOR GRIEVANCES AGAINST DP

49. SEBI has alleged that during the inspection period, 26 complaints received directly from depositories were pending with MOFSL for more than 30 days.

50. At the outset, it is submitted that MOFSL denies that the same were pending for more than 30 days and the submissions of MOFSL in respect of the inspection observations has not been adequately considered while framing this allegation in the SCN.

51. It is submitted that as per our internal Investor Grievance Resolution Policy, the internal turn-around-time to respond to the complaints is 7 working days, however, every effort is made to ensure that the complaints are resolved within 30 days.

52. It is submitted that the purported delay / pendency noted by the inspection team is a consequence of multiple correspondences and back and forth with client / exchange as the case maybe as a result of which the ageing of these complaints are seen has having crossed 30 days. It is submitted that in each of the 26 instances, the first response in all complaints were given by MOFSL well within the 30 day period, however, when multiple correspondences are exchanged, these complaints exceed the 30 day period.

53. It is pertinent to state and clarify that as per our Investor Grievance Resolution Policy, in the event there is no response by a client to MOFSL's response within 30 days, the same is treated as closed and any response after a period of 30 days is treated as a separate complaint. Accordingly, in our complaint master, we have recorded the first date when the complaint was received and also the date when the first response has been provided by MOFSL and any delay / pendency is in such cases where the complaint has been responded to after 30 days and therefore reopened.

54. We are once again enclosing details of 26 complaints clearly segregating date of first response to client which demonstrates that the same was filed within 30 days of receipt of complaint. Ageing of complaint receipt date and First response date which is calculated in column 'G' of excel file given in Annexure - 6 i.e. 'Ageing for First Response', clearly demonstrates that ageing has never crossed more than 30 days. Also we are enclosing sample client complaints documentation depicting all correspondence including first response date. These are enclosed herewith as Annexure - 6.

55. It is, therefore, respectfully submitted that there is no violation of the Stock Brokers Regulations.

VIII. FINDING H: IMPROPER MAINTENANCE OF BANK BOOKS

56. SEBI, during the inspection, has observed that:

> *(i) narrations of the transactions are not correctly captured in the bank books.*
> *(ii) Headers of the bank books are incorrect - payments entries were entered under the receipt column and receipt entries were entered under the payment column.*
> *(iii) Single voucher number is mapped to multiple entries.*

57. At the outset, it is denied that MOFSL has violated Regulation 17 of Stock Brokers Regulations which requires every stock broker to maintain proper books of accounts and other records.

58. In respect of the observation pertaining to narrations of transactions, it is submitted that during the Inspection Period, narrations in respect of transactions for fund transfers were mapped manually which may have contributed to grey areas or inability to identify certain transactions. In this regard, MOFSL has taken corrective action by enabling maker / checker mechanism to ensure correctness of narrations.

59. Furthermore, MOFSL has standardised the narration for all fund movements between own to client bank account & vice versa where now details of destination bank and nomenclature like "Own to Client" or "Client to Own" are incorporated which shall depict correct nature of fund transfer and accordingly ensure that correct figures are computed.

60. In respect of the observation pertaining to headers, it is submitted that headers of bank books maintained by MOFSL are from a client's perspective and therefore there is no incorrect payment entry. It is submitted that header entries in bank book pertains to "to and from" fund movement from a client and hence "Receipt-Client" column of Bank book means funds
received by customers from MOFSL and "Payment-Client" column of Bank book means funds paid by customers to MOFSL.

61. It is pertinent to state that MOFSL has maintained bank books in this fashion for a long time and no issues have ever been highlighted by any inspection team prior to this instance. Notwithstanding the fact that there is no error in the payment entries, in the interest of clarity MOFSL has changed bank book headers with effect from March 17, 2023, and now in "Receipt-Client" shows funds received from client and "Payment-Client" shows funds paid to clients.

62. In respect of the observation pertaining to single voucher number mapped to multiple entries, it is necessary to be clarified that we receive payments from we wish to state that in majority instances payment is received from custodian through one UTR number which is allocated in back office against their various accounts. Accordingly, a common voucher number is allocated against similar type of entries. For instance, in case of entries pertaining to payouts and GST payable on the said transaction, a common voucher number is used as the same becomes identifiable for accounting purposes. Furthermore, it is necessary to state that in our back-office software, voucher number is created based on combination of Financial Year, Segment (CM/FO etc.), Voucher type (Receipt / Payment) and Bank book code (across multiple bank accounts) & Book Type. For this combination, system generates unique voucher number. Accordingly, there is no concern if common voucher number is generated across various banks / segments etc.

63. In view of the above, it is respectfully submitted that no action is warranted against MOFSL in this regard.

IX. FINDING I: SETTLEMENT OF FUNDS OF INACTIVE CLIENTS

64. SEBI has observed that MOFSL, while setting aside funds of Rs. 3.50 Crore belonging to 39 active clients has incorrectly shown the reason as non-availability of client bank account and non-traceability of client. Furthermore, in the case of one client, SEBI has observed that MOFSL has settled client funds by making a journal entry in Non-MTF account instead of making direct payout to client account.

65. At the outset, it is submitted that MOFSL has a system-based process of quarterly settlement of active as well as inactive clients where the system identifies the eligible customers and *calculates the funds to be released. On the basis of the same, MOFSL processes the payout of funds to clients registered bank account.*

66. In case the payout is not processed / rejected by bank for any of the reason such as bank account freeze / closed / inactive / not available, MOFSL parks such funds in separate bank account in accordance with BSE Notice No. 20200210-47 dated February 10, 2020. Samples depicting rejection of payout is enclosed herewith as Annexure - 7.

67. Thereafter, upon rejection by bank, MOFSL intimates the clients to register / modify their bank account and in this regard MOFSL also shares an e-modification link to enable instantaneous mapping of the account for swift settlement of the client account. Once the clients register / update their new bank account details, funds are released to the client.

68. Having stated the above process of settlement followed at MOFSL, it is submitted that the situation with respect to non – availability of the current bank account persisted in the case of all 39 clients observed in the present SCN. Copies of communications addressed to the concerned clients are enclosed herewith as Annexure - 8.

69. It is necessary to state and clarify that these 39 clients are not active clients as alleged by SEBI in the SCN merely because an instance of trade or transaction occurring after the amounts were set aside in a separate bank account. It is submitted that as there is no guidelines on permitting or disallowing trades of clients whose balances are separately parked, the same was permitted as these transactions are largely clients squaring off existing position.

70. In any event, it is submitted that in the present case, all 39 clients have been settled, details of which are enclosed herewith as Annexure - 9.

71. Insofar as client bearing UCC BPA132 i.e., Ms. Vinita Yadav, at the outset, it is submitted that observations pertaining to the same are in respect of transaction on July 4, 2022, which is beyond the Investigation Period in the present SCN.

72. Notwithstanding the above, it is submitted that the concerned client account was activated with MOFSL on February 25, 2022, and therefore did not warrant settlement in the first three months as per applicable regulatory guidelines. As the client was active in April and May 2022, client account was settled on May 25, 2022, and retention letter was sent to the client. Thereafter, client account was attempted to be settled on June 25, 2022, however, the same was rejected by the bank and consequently the credit balance was parked in the designated separate bank account.

73. At the relevant time, the client had also availed MTF facility and pursuant to the Inspection Period had closed an open position in the scrip 'Shalimar Paints' on July 4, 2022. Resultantly, equivalent MTF debit was shifted to cash segment. Copies of Client ledger, MTF Positions as on July 3 and 4, 2022, and DP statement showing unpledged securities released to clients demat account is enclosed as Annexure - 10, Annexure - 11, Annexure - 12.

74. It is submitted that contrary to what is sought to be alleged, MOFSL has not whimsically passed journal entries to settle client accounts as the same are entirely system driven which, relying upon no open MTF position, had marked the client account as settled. It is submitted that MOFSL has a process in place to settle large number of clients on a daily basis. Accordingly, MOFSL has taken various steps to ensure compliances related to monthly / quarterly settlement of clients.

75. It is submitted that MOFSL has released approximately Rs.2,389 Crores as part of its quarterly settlement process during the Inspection Period and there is no reason or malicious intent on MOFSL's to not settle the account in any of the instances under this head of allegation unless a genuine reason existed.

76. It is respectfully submitted that the observations and allegations in present Show Cause Notice are largely instances where no violation is established and, in some instances, the purported violation so noted is a technical infraction which can be remedied and corrected. Pertinently, all observations noted in the present SCN emanate from day-to-day operational activities of a stock broker in the ordinary course of business and are not egregious acts or delinquent conduct.

77. It is submitted that NBSPL has duly taken note of the observations in the Show Cause Notice and undertakes to correct and improve the operations of its APs as well as take such steps to remedy any future reoccurrence. We seek to rely upon the observation of the Hon'ble Securities Appellate Tribunal in Religare Securities Limited vs Securities and Exchange Board of India (Order dated June 16, 2011 in Appeal No. 23 of 2011) where the Hon'ble Tribunal has set out the objective of inspection as under:

> *"It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."*
> *[Emphasis added]*

78. It is, therefore, humbly prayed that the present SCN against MOFSL does not warrant any punitive action and, therefore, it is humbly prayed that the SCN be disposed of without any further action.

…"

9. On the scheduled date of hearing viz., on August 07, 2024, the Noticee availed the opportunity of hearing through its Authorized Representative (AR) viz., Samyak Pati, Advocate, wherein the AR appeared online and inter alia relied upon and reiterated the submissions made by Noticee vide letter dated August 05, 2024. Further, the ARs sought time till August 12, 2024 to make additional submissions as final and complete submissions in the matter, accordingly the same was allowed.

10. Vide letter dated August 14, 2024, the Noticee inter alia made following additional submissions:

"…

5. MOFSL had filed its reply dated August 5, 2024, ("Reply") submitting inter alia, providing its responses to each of the violations alleged in the SCN. These Written Submissions are being filed as an aide-mémoire to the submissions made as well as make additional submissions as to why the Show Cause Notice ought to be disposed of without any further action.

GIST OF SUBMISSIONS ON BEHALF OF MOFSL

6. The submissions of MOFSL in respect of the allegations are set out are as under:

Sr. No.	***UCC & Client Name***	***Observation / Allegation***	***MOFSL's Reply***
1.	*Reporting and short collection of margin*	*During the Inspection, SEBI has observed that MOFSL has incorrectly collected and / or reported margin to exchange in Cash Market, F&O, and Currency Derivate Segment in:* *(i) CM Segment – Wrong reporting in 1 instance for 1 client amounting to Rs. 89,43,657.57/-* *(ii) F&O Segment - Wrong reporting in 1 instance for 1 client amounting to Rs. 1,01,784.89/-* *(iii) CD Segment - Wrong reporting in 5 instances for 5 clients*	1. *In case of the CM Segment, due to a technical issue, shares pledged by client to MOFSL and subsequent pledging of the shares by MOFSL with the Clearing Corporation have been considered together and therefore a total of 13,330 shares were inadvertently considered for margin reporting instead of 7070 shares.* 2. *In case of F&O Segment and 2 instances of CD Segment, the VaR rate considered for valuation of securities was erroneously considered for T-2 date instead of T-1 date thus resulting in excess pledge value of the securities.* 3. *In case of GHY4732 and GHY4734 in the CD Segment, MOFSL has correctly reported peak margin shortage after considering T-1 MTM / CCO obligation as well which is as per extant guidelines. The difference between peak margin shortage as reported*

Sr. No.	UCC & Client Name	Observation / Allegation	MOFSL's Reply
			by MOFSL and as per exchange is to the extent of this T-1 MTM / CCO value. 4. *In case of GULE1279, MOFSL had only reported EOD Margin shortage and not Peak Margin shortage and whereas the difference between the reporting as per calculations of MOFSL and the inspection team is Rs. 9,385.22/-. In any event, MOFSL has already paid short margin penalty.* 5. *It is submitted that where shortage was noted, MOFSL has duly reported the same, however, in other cases, it must be borne it mind that the same is only an issue of misreporting and adequate margin was available for such clients. Hence, no adverse action is warranted.*
2.	*Weekly data of cash and cash equivalents balances in 57 instances incorrectly uploaded*	*SEBI has observed that MOFSL has not correctly uploaded weekly data of Cash & Cash Equivalent balances in 57 instances.*	*1. In 25 out of 57 instances, the balances have been correctly reported.* *2. In 6 other instances, the difference in balance is between Rs. 35 to Rs. 1,371 which was inadvertent and a calculation error.* *3. In remaining 26 instances, the difference is on account of non-consideration of certain balances which was also inadvertent and not intentional.* *4. There is no discrepancy in the order confirmation as trade for sale of 3000 shares of Union Bank of India in UCC L417 was duly carried out as per the order placed and confirmed.* *5. It is submitted that it must be borne in mind that the misreporting are miniscule in nature and discrepancies are inadvertent when reporting is being made in respect of 13 lakh clients. Furthermore, at no point as the value of G has never been negative. Therefore, no adverse action is warranted.*
3.	*Complaints and arbitration against TM*	*SEBI has alleged that during the inspection period, 334 complaints received on SCORES and directly from exchanges were pending with MOFSL for more than 30 days.*	*1. It is denied that the complaints were pending over 30 days.* *2. MOFSL's Investor Grievance Resolution Policy states that the internal turn-around-time to respond to the complaints is 7 working days, however, every effort is made to ensure that the complaints are resolved within 30 days.*

Sr. No.	UCC & Client Name	Observation / Allegation	MOFSL's Reply
			3. In each of the instances, the first response to the complaint is within 30 days, however, when multiple correspondences are exchanged, these complaints exceed the 30 day period. 4. It is, therefore, submitted that there is no violation by MOFSL.
4.	*Engaging as a principal or employee in a business other than that of securities involving personal financial liability*	*SEBI has observed that MOFSL has investments in associated companies to the tune of Rs. 1719.94 Crores and therefore it is alleged that MOFSL has violated Rule 8(3)(f) of the SCRR.*	1. It is submitted that Rule 8(3)(f) does not preclude decisions to use surplus funds for strategic investments into a group subsidiary and so long as a trading member can demonstrate its ability to meet its statutory obligations and a higher credit balance i.e., a position 'G' value, a trading member is free to avail commercial opportunities. 2. The Hon'ble SAT in Magnum Equity Broking Ltd. vs. National Stock Exchange of India Ltd. (Order dated November 29, 2023 in Appeal No. 461 of 2022) has further clarified that there is no dispute when a trading member uses its own money to invest its surplus funds. 3. In all cases of investments noted, MOFSL has used its own surplus funds and not client funds or borrowed and MOFSL has not assumed any personal or contingent liability and it has not given any corporate guarantees to anyone on behalf of the subsidiaries. 4. It is, therefore, submitted that there is no violation by MOFSL.
5.	*Margin trading funding*	*SEBI has alleged that MOFSL has incorrectly reported MTF Collaterals to the Exchange in 5 instances amounting to Rs. 39.65 Crores.*	1. It is submitted that MOFSL, as a process, duly reports allocated collaterals towards MTF segment to Exchanges as a part of its MTF reporting. However, in case of these 5 instances, due to an clerical error, required collateral which were considered by MOFSL for the concerned client's MTF position was not reported. This error has been subsequently rectified. 2. It is necessary to state and clarify that the present case is only of misreporting of collateral which was available with MOFSL and not

Sr. No.	UCC & Client Name	Observation / Allegation	MOFSL's Reply
			availability of adequate collateral as the margin compliance requirements as per the regulatory guidelines are duly observed by MOFSL and there were sufficient margins with MOFSL for MTF position of the concerned clients. 3. It is also pertinent to clarify that the quantum of non – reporting of collateral in respect of the 5 instances is not to the extent of Rs. 39.54 Crores but Rs. 10.05 Crores.
6.	*Securities of credit balance clients transferred to "Client Unpaid Securities Account" by MOFSL*	*SEBI has observed that MOFSL has transferred securities of credit balance clients to Client Unpaid Securities Account ("**CUSA**") of 3574 clients amounting to Rs. 8.62 Crores*	*1. The extant SEBI guidelines had directed trading members to open CUSA to be used with regard to securities that have not been paid in full by the clients. 2. It is submitted that instances in respect of 3574 clients highlighted in the SCN pertain to those cases where the shares were retained until fulfilment of client obligation in respect of ledger balance and / or margin obligation on their open positions. 3. Pertinently, MOFSL only holds the securities in CUSA are per the timelines prescribed following which the securities are either transferred to client demat accounts after compliance of obligation or liquidated in the market. It is, therefore, submitted that the MOFSL has correctly dealt with the client securities while transferring into CUSA and therefore there is no violation as alleged in the SCN.*
7.	*Investor grievances against DP*	*SEBI has alleged that during the inspection period, 26 complaints received directly from depositories were pending with MOFSL for more than 30 days.*	*1. It is denied that the complaints were pending over 30 days. 2. MOFSL's Investor Grievance Resolution Policy states that the internal turn-around-time to respond to the complaints is 7 working days, however, every effort is made to ensure that the complaints are resolved within 30 days. 3. In each of the instances, the first response to the complaint is within 30 days, however, when multiple correspondences are exchanged, these complaints exceed the 30 day period.*

Sr. No.	UCC & Client Name	Observation / Allegation	MOFSL's Reply
			4. It is, therefore, submitted that there is no violation by MOFSL.
8.	*Improper maintenance of bank books*	*SEBI, during the inspection, has observed that:* *(i) narrations of the transactions are not correctly captured in the bank books.* *(ii) Headers of the bank books are incorrect - payments entries were entered under the receipt column and receipt entries were entered under the payment column.* *(iii) Single voucher number is mapped to multiple entries.*	*1. It is denied that MOFSL has violated Regulation 17 of Stock Brokers Regulations which requires every stock broker to maintain proper books of accounts and other records.* *2. In respect of the observation pertaining to narrations of transactions, it is submitted that due to manual mapping may have contributed to some grey areas. MOFSL has taken corrective action by enabling maker / checker mechanism as well as standardised the narration for all fund movements between own to client bank account & vice versa.* *3. In respect of the observation pertaining to headers, it is submitted that headers of bank books maintained by MOFSL are from a client's perspective and accordingly header entries in bank book pertains to "to and from" fund movement from a client. In order to resolve any lack of clarity, MOFSL has changed its bank book headers.* *4. In respect of the observation pertaining to single voucher number mapped to multiple entries, it is necessary to be clarified that payment is received by MOFSL from custodian through one UTR number which is allocated in back office against their various accounts. Accordingly, a common voucher number is allocated against similar type of entries. Furthermore, voucher number is created based on combination of Financial Year, Segment (CM/FO etc.), Voucher type (Receipt / Payment) and Bank book code (across multiple bank accounts) & Book Type. For this combination, the system generates unique voucher number. Accordingly, there is no concern if common voucher number is generated across various banks / segments etc.*
9.	*Settlement of funds of inactive clients*	*SEBI has observed that MOFSL, while setting aside funds of Rs. 3.50 Crore belonging to 39 active clients has incorrectly*	*1. It is submitted that MOFSL has a system-based process of quarterly settlement of all clients. In case the payout is*

Sr. No.	UCC & Client Name	Observation / Allegation	MOFSL's Reply
		shown the reason as non-availability of client bank account and non-traceability of client. Furthermore, in the case of one client, SEBI has observed that MOFSL has settled client funds by making a journal entry in Non-MTF account instead of making direct payout to client account.	not processed / rejected by bank for any of the reason such as bank account freeze / closed / inactive / not available, MOFSL parks such funds in separate bank account. 2. On rejection by bank, MOFSL intimates the clients to register / modify their bank account and in this regard MOFSL also shares an e-modification link to enable instantaneous mapping of the account for swift settlement of the client account. Once the clients register / update their new bank account details, funds are released to the client. 3. It is submitted in following the above settlement protocol, that the situation with respect to non – availability of the current bank account persisted in the case of all 39 clients observed in the present SCN. 4. In case of UCC BPA132 i.e., Ms. Vinita Yadav, it is submitted that pursuant to the Inspection Period had closed an open position in the scrip 'Shalimar Paints' on July 4, 2022. Resultantly, equivalent MTF debit was shifted to cash segment. Accordingly, the account was marked settled. MOFSL has not passed any incorrect journal entry in this regard.

POST HEARING SUBMISSIONS

7. It is respectfully submitted that the observations and allegations in present Show Cause Notice are largely instances where no violation is established and, in some instances, the purported violation so noted is a technical infraction which can be remedied and corrected. Pertinently, all observations noted in the present Show Cause Notice emanate from day-to-day operational activities of a stock broker in the ordinary course of business and are not egregious acts or delinquent conduct.

8. It is submitted that MOFSL has duly taken note of the observations in the Show Cause Notice and undertakes to correct and improve the operations to remedy any future reoccurrence. We seek to rely upon the observation of the Hon'ble Securities Appellate Tribunal in Religare Securities Limited vs Securities and Exchange Board of India (Order dated June 16, 2011 in Appeal No. 23 of 2011) where the Hon'ble Tribunal has set out the objective of inspection as under:

"It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."

[Emphasis added]

9. It is submitted that the present Show Cause Notice against MOFSL does not warrant any punitive action and, therefore, it is humbly prayed that the Show Cause Notice be disposed of without any further action.

…"

D. CONSIDERATION OF ISSUES AND FINDINGS

11. I find that the following issues require consideration in the instant proceedings:

Issue No. I: Whether the Noticee had violated the provisions of SEBI Stock Broker Regulations, 1992, SEBI DP Regulations, SCR Rules, 1957 and Circulars, as alleged?

Issue No. II: If yes, whether the violations on the part of the Noticee would attract monetary penalty under Section 15HB, Section 15C and Section 15A(c) of the SEBI Act, 1992, and Section 23H of SCR Act, 1956?

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

I now proceed to deal with the matter on merit.

Issue No. I: Whether the Noticee has violated the provisions of SEBI Stock Broker Regulations, 1992, SEBI DP Regulations, SCR Rules, 1957 and Circulars, as alleged?

12. The following was inter alia observed and alleged in respect of the Noticee:

12.1. **Finding A: Reporting and short collection of Margin:**

12.1.1. In this regard, the following was observed and alleged:

CM: 1 Client 1 Instance
Amount of Wrong Reporting Rs.89,43,657.57

FO: 1 Client 1 Instance
Amount of Wrong Reporting Rs.1,01,784.89

CDS: 5 Clients 5 Instances
Amount of Short Collection Rs.50,42,257.94
Amount of Wrong Reporting Rs.26,19,751.63

Accordingly, it was alleged that the Noticee had violated Clause 1, 2, 3, 4, 5 and 6 of SEBI Circular No. CIR/DNPD/7/2011 dated August 10, 2011, Clause 4.1.2 of SEBI/HO/MIRSD/DOP/CIR/P/2019/139 dated, November 19, 2019, Clause 2.1 of SEBI/HO/MIRSD/DOP/CIR/P/2020/146 July 31, 2020, Clause 3 (xii) of SEBI/HO/CDMRD/DRMP/CIR/P/2016/80 dated September 07, 2016.

12.1.2. In this regard, I note that Clause 1, 2, 3, 4, 5 and 6 of SEBI Circular No. CIR/DNPD/7/2011 dated August 10, 2011 reads as under:

"...

1. In consultation with BSE, MCX-SX, NSE and USE, it has been decided that Stock Exchanges shall levy penalty specified hereunder on trading members for short-collection/non-collection of margins from clients in Equity and Currency Derivatives segments:

…

2. If short/non-collection of margins for a client continues for more than 3 consecutive days, then penalty of 5% of the shortfall amount shall be levied for each day of continued shortfall beyond the 3rd day of shortfall.

3. If short/non-collection of margins for a client takes place for more than 5 days in a month, then *penalty of 5% of the shortfall amount shall be levied for each day, during the month, beyond the 5th day of shortfall.*

4. Notwithstanding the above, if short collection of margin from clients is caused due to movement of 3% or more in the index (close to close value of Nifty/Sensex for all equity derivatives) and in the underlying currency pair (close to close settlement price of currency futures, in case of all currency derivatives) on a given day, (day T), then, the penalty for short collection shall be imposed only if the shortfall continues to T+2 day.

5. All instances of non-reporting shall amount to 100% short collection and the penalty as applicable shall be charged on these instances in respect of short collection.

6. If during inspection it is found that a member has reported falsely the margin collected from clients, the member shall be penalized 100% of the falsely reported amount along with suspension of trading for 1 day in that segment.

…"

12.1.3. Further, in this regard, I note that Clause 4.1.2 of SEBI/HO/MIRSD/DOP/CIR/P/2019/139 dated November 19, 2019 reads as under:

…"

4.1.Collection of margins from the clients by TM/CM in cash segment:

4.1.2.Henceforth, like in derivatives segment, the TMs/CMs in cash segment are also required to mandatorily collect upfront VaR margins and ELM from their clients. The TMs/CMs will have time till 'T+2' working days to collect margins (except VaR margins and ELM) from their clients. (The clients must ensure that the VaR margins and ELM are paid in advance of trade and other margins are paid as soon as margin calls are made by the Stock Exchanges/TMs/CMs. The period of T+2 days has been allowed to TMs/CMs to collect margin from clients taking into account the practical difficulties often faced by them only for the purpose of levy of penalty and it should not be construed that clients have been allowed 2 days to pay margin due from them.)

…"

12.1.4. Further, in this regard, I note that Clause 2.1 of SEBI/HO/MIRSD/DOP/CIR/P/2020/146 July 31, 2020 reads as under:

"…

2.1. If TM / CM collects minimum 20% upfront margin in lieu of VaR and ELM from the client, then penalty for short-collection / non-collection of margin shall not be applicable. However, it is reiterated that Clearing Corporation shall continue to collect the upfront margin from the TM / CM based on VaR and ELM

…"

12.1.5. Further, in this regard, I note that Clause 3 (xii) of

SEBI/HO/CDMRD/DRMP/CIR/P/2016/80 dated September 07, 2016 reads as under:

"…

3. The penalty structure and framework for short-collection/non-collection of margins by members from their clients shall be as under:

…

xii. Exchanges shall examine implementation of these instructions during the inspection of its members. If during inspection or otherwise, incorrect reporting on collection of margin from client by member is found, the member shall be penalized up to 100% of such amount short collected.

…"

12.1.6. In this regard, I note that as regards 1 instance in Cash Market ("CM") segment (UCC: NKxx55), the Noticee's submissions are in nature of admission, in so far as the Noticee has submitted, "…*due to a technical issue, 6,260 shares pledged by client to MOFSL and subsequent pledging of the shares by MOFSL with the Clearing Corporation have been considered twice together with 810 shares and therefore a total of 13,330 shares were inadvertently considered for margin reporting instead of 7,070 shares…*"

12.1.7. As regards 1 instance in Futures and Options ("FO") segment (UCC: H4xx91), I note that the Noticee's submissions are in nature of admission, in so far the Noticee has submitted, "…*the VaR rate considered for valuation of securities was erroneously considered for T-2 date instead of T-1 date thus resulting in excess pledge value of the securities…"*

12.1.8. I note that the violation had been observed with respect to the below 5 instances in Currency Derivatives ("CD") segment:

Margin Date	SEGMENT	Client Code	EOD Short Collection (in Rs.)	Peak Short Collection (in Rs.)	Wrong Reporting (in Rs.)
06/10/2021	CD	MWxx03	-		6,175.30
29/06/2022	CD	OMxxx242	1,46,295.65	12,88,159.46	4,352.33
08/03/2022	CD	GUxxx279	24,31,688.78	-	24,41,074.00
13/06/2022	CD	GHxxx32	-	5,17,968.44	1,20,000.00

13/06/2022	CD	GHxxx34	-	6,58,145.61	48,150.00

12.1.9. In this regard, as regards 2 instances with respect to UCCs, GHxxx32 and GHxxx34, the Noticee has submitted, "…*as per exchange guidelines pertaining to currency derivatives segment, Consolidated Crystallized Obligation (CCO) / MTM on T-1 day can be collected from the client on the T day. Reliance is placed on NSE FAQ dated July 31, 2020…In view of the above guidelines, MOFSL had computed peak margin shortage of GHY4732 and GHY4734 by computing the ledger balance and including MTM / CCO obligations of T and T-1. It is submitted that while there was shortage which was duly reported in case of GHY4732 and GHY4734, the difference between peak margin shortage as reported by MOFSL and as per exchange is only to the extent of T-1 MTM / CCO which was considered by MOFSL and added back for deriving peak ledger balance for computation of peak collaterals available on T day as per exchange guidelines…"*

In this regard, I note that NSE Circular NSE/INSP/50592 dated December 13, 2021 reads as under:

"…

9	*Peak Financial Ledger Balance (Clear)-C*	*Value in Rs. (Decimals shall be allowed upto 3 digits)* *NA* *Note: Highest net credit balance/lowest net debit balance across all segments & Exchanges during the day.* *Financial ledger balance, after adjusting/reversal for open bills (open bills also contain 'value of credit entry posted in client ledger in lieu of successful EPI to CC')*

…"

Therefore, I note that the Noticee had wrongly calculated the peak margin as the Noticee had added T-1 MTM / CCO for deriving peak ledger balance for computation of peak collaterals available on T day in CD segment. Therefore, Noticee's contention devoid of merit and hence not acceptable.

12.1.10. As regards 1 instance with respect to UCC, GUxxx279, the Noticee has submitted, "…*MOFSL had only reported EOD Margin shortage and not Peak Margin shortage as the former was higher of the two*…*Without prejudice to the above, however, the difference between the EOD reporting of Rs. 24,31,688.78/- as per calculations of MOFSL and the Peak reporting of Rs. 24,41,074/- as per inspection team is Rs. 9,385.22*/"

In this regard, I note from the material available on record that total EOD margin requirement in this regard was Rs. 97,25,181.13 and total Peak Margin requirement was Rs. 97,34,566. Therefore, the Noticee's contention is devoid of merit and hence not acceptable.

12.1.11. As regards 2 instances with respect to UCCs, MWxx03 and OMxxx242, I note that the Noticee has not submitted any response in its reply to the SCN. Therefore, in absence of any response, I am of the view that the Noticee has admitted to the allegations in this regard.

12.1.12. In view thereof, I find that the allegation that the Noticee had done wrong reporting and short collection of margin on 1 instance in CM segment, on 1 instance in FO segment and on 5 instances in CDS segment, stands established. Accordingly, I hold that the Noticee had violated the provisions of Clause 1, 2, 3, 4, 5 and 6 of SEBI Circular No. CIR/DNPD/7/2011 dated August 10, 2011, Clause 4.1.2 of SEBI/HO/MIRSD/DOP/CIR/P/2019/139 dated, November 19, 2019, Clause 2.1 of SEBI/HO/MIRSD/DOP/CIR/P/2020/146 July 31, 2020, Clause 3 (xii) of SEBI/HO/CDMRD/DRMP/CIR/P/2016/80 dated September 07, 2016.

12.2. **Finding B:**

12.2.1. In this regard, it was observed and alleged that the member had not correctly uploaded weekly data of Cash & Cash Equivalent balances in 57 instances.

Accordingly, it was alleged that the Noticee had violated Clause 3.2 of

Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

12.2.2. In this regard, I note that Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 reads as under:

> *"…*
>
> *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 by the 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 issued 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*
>
> *…"*

12.2.3. In this regard, I note that as regard 25 instances, the Noticee has submitted, "…*in case of 25 out of the 57 instances, SEBI's allegation is entirely incorrect, and the balance is correctly reported as per provisions of Cash & Cash Equivalent reporting…"*.

In this regard, I note that the Noticee's submissions are in nature of mere statements and save for saying so, the Noticee has not submitted any relevant details and documents to substantiate the same. Therefore, the Noticee's submissions are devoid of merit and hence not acceptable.

12.2.4. In this regard, I note that as regards 6 instances, the Noticee's submissions are in nature of admission, in so far as the Noticee has submitted, "…*error in balance reported in Cash & Cash Equivalent reporting is only w.r.t DP charges which is nominal in nature in range of Rs.35 to 1,371 and was erroneously ignored while reporting Financial Ledger Balance…"*.

12.2.5. In this regard, I also note that regards 26 remaining instances the Noticee has not submitted any response in its reply to the SCN. Therefore, in absence of any response, I am of the view that the Noticee has admitted to the allegations in this regard.

12.2.6. In view thereof, I find that the allegation that the Noticee had not correctly uploaded weekly data of Cash & Cash Equivalent balances in 57 instances, stands established. Accordingly, I hold that the Noticee had violated the provisions of Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

12.3. **Finding C: Complaints and Arbitration (against TM):**

12.3.1. In this regard, it was inter alia observed and alleged that during the inspection period 334 complaints received on SCORES and directly from exchanges were pending with TM for more than 30 days.
Accordingly, it was alleged that the Noticee had violated Regulation 9(e) of SEBI (Stock Brokers) Regulations, 1992.

12.3.2. In this regard, I note that Regulation 9(e) of SEBI (Stock Brokers) Regulations, 1992 reads as under:

> *"…*
> *9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-*
> *…*
> *(e) he shall take adequate steps for redressal of grievances, of the investors within one month of the date of receipt of the complaint and inform the Board as and when required by the Board;*
> *…"*

12.3.3. In this regard, I note that Noticee has submitted, "…*MOFSL denies that the same were pending for more than 30 days and the submissions of MOFSL in respect of the inspection observations has not been adequately considered while framing this allegation in the SCN…"* and "…*purported delay / pendency noted by the inspection team is a consequence of multiple correspondences and back and forth with client / exchange as the case maybe as a result of which the ageing of these complaints are seen has having crossed 30 days. It is submitted that in each of the 334 instances, the first response in all complaints were given by MOFSL well within the 30 day period, however, when multiple correspondences are exchanged, these complaints exceed the 30 day period…"* and "…*we are enclosing sample client complaints documentation depicting all correspondence including first response date. These are enclosed herewith as Annexure – 3…"*

12.3.4. In this regard, I note from the plain reading of the text of Regulation 9(e) of SEBI (Stock Brokers) Regulations, 1992 that a broker is inter alia required to take adequate steps for redressal of grievances, of the investors within one month of the date of receipt of the complaint.

12.3.5. In this regard, having regard to the material available on record and submissions of the Noticee, I note that it is not evidently brought out how the Noticee had violated Regulation 9(e) of SEBI (Stock Brokers) Regulations, 1992. Therefore, I am inclined to allow the benefit of doubt to the Noticee in this regard.

12.4. **Finding D: Member is engaged as a principal or employee in a business other than that of securities involving personal financial liability:**

12.4.1. In this regard, it was inter alia observed and alleged that trading member has investments in associate companies.

Total Balance as on 31 Mar 2022 – Rs.1719.94 Crores.

Accordingly, it was alleged that the Noticee had violated Rule 8 (3) (f) of the Securities Contract (Regulation) Rules, 1957.

12.4.2. In this regard, I note that Rule 8(3)(f) of Securities Contracts (Regulation) Rules, 1957 reads as under:

"…

Qualifications for membership of a recognised stock exchange.

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

…

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

…

(f) he engages either as principal or employee in any business other than that of securities [15][or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

> *(i)the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,*
>
> *(ii)in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,*
>
> *[16][(iii)nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items [(a) to (n)of sub-rule (8)][17]*

…"

12.4.3. In this regard, I note from the material available on record that the Noticee has made following investments in associate companies:

Sr.No.	Name of Entity	Nature of Business	Closing Balance as on 31-March-2022 (in Rs. crores)

1	Motilal Oswal Finvest Limited	Non-Banking Financial Company (Loan Company)	905.35
2	Motilal Oswal Wealth Management Ltd	Portfolio Management Services Mutual Fund Distribution	15.21
3	Motilal Oswal Asset Management Company Ltd	1. Investment Manager 2. PMS	166.67
4	Motilal Oswal Trustee Company Ltd	1) ROC Company 2) Trustee to MF Business of MOAMC	0.10
5	Motilal Oswal Capital Markets (Honkong) Pvt .Ltd	Type IV (Advising on securities) regulated activities	4.12
6	Aspire Home Finance Corporation Limited	Housing Finance	566.33
7	Motilal Oswal Investment Advisors Private Limited	Merchant Banker	41.37
8	MOPE Investment Advisors Private Limited	ROC Company	12.60
9	Motilal Oswal Insurance Brokers Pvt Ltd	Insurance	1.18
10	Glide Tech Investment Advisory Pvt	Registered Investment Advisor	7.00

12.4.4. In this regard, I note that the Noticee as part of its reply to the SCN has submitted that, "…*As such, the legislative intent behind the SCRR is not to stymie and/ or dictate operational decisions such as use of its own surplus funds or restrict strategic investments into a group subsidiary and so long as a trading member can demonstrate its ability to meet its statutory obligations and a higher credit balance i.e., a position 'G' value, a trading member is free to avail commercial opportunities…it is submitted that as part of strategic decision, MOFSL deploys its surplus profits (out of its own funds/ net-worth) into strategic investments…".* In this regard, the Noticee has cited judgment of Hon'ble Securities Appellate Tribunal ("SAT") in Jitendra Pukhraj Jain vs. National Stock Exchange of India Ltd. (Order dated November 17, 2020 in Appeal No. 390 of 2020) and in Magnum Equity Broking Ltd. vs. National Stock Exchange of India Ltd. (Order dated November 29, 2023 in Appeal No. 461 of 2022).

12.4.5. In this regard, I note that as regards some of the investments in associate companies, the nature of business is indicated as Portfolio Management Services, Mutual Fund Distribution, Investment Manager, Trustee to Mutual Fund Business, Merchant Banker and Registered Investment Advisor etc., which prima facie appears to be related to business of securities. In view thereof, I note that the alleged violation in respect of the Noticee in this regard, has not been brought out clearly along with specific details. Therefore, I am inclined to allow the benefit of doubt to the Noticee in this regard.

12.5. **Finding E: Margin Trading Funding:**

12.5.1. In this regard, it was inter alia observed and alleged that trading member had incorrectly reported MTF Collaterals to the Exchange:- 5 clients 5 instances (Rs.39.65 crores).

Accordingly, it was alleged that the Noticee had violated Clause 19 of SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 and NSE circular NSE/COMP/35125 dated June 15, 2017 & NSE/COMP/35260 dated June 30, 2017, NSE/INSP/43069 dated December 31, 2019, NSE/INSP/43724 dated March 02, 2020, NSE/INSP/45191 dated July 31, 2020 and NSE/COMP/48531 dated June 09, 2021 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

12.5.2. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Clause 19 of SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017

"…

19.The stock broker shall disclose to the stock exchanges details on gross exposure towards margin trading facility including name of the client, Category of holding (Promoter/promoter group *or Non-promoter), clients' Permanent Account Number ("PAN"), name of the scrips(Collateral stocks and Funded stocks)and if the stock broker has borrowed funds for the purpose of providing margin trading facility, name of the lender and amount borrowed, on or before 12 noon on the following trading day.*

…“

Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992

"…

Conditions of registration.

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

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

...

SCHEDULE IICODE OF CONDUCT FOR STOCK BROKERS

A. General

...

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

…“

12.5.3. In this regard, I note that the Noticee's submissions are in nature of admission in so far as the Noticee has inter alia submitted, "*in case of these 5 instances, due to clerical error, required collateral which were considered by MOFSL for the concerned client's MTF position was not reported".*

Further in this regard, the Noticee has submitted, "…*the quantum of non – reporting of collateral in respect of the 5 instances is not to the extent of Rs.39.54 Crores as mentioned in SCN but Rs.10.05 Crores as seen below:*

Particulars	**Amount**
Total securities pledged in favour of MOFSL by client for all segments	42,52,99,760
Securities allocated for MTF Segment	18,40,20,686
Securities reported in MTF reporting to Exchange	8,34,51,805
Securities not reported in MTF reporting to Exchange	10,05,68,880

Client wise details of the above figures are enclosed herewith as Annexure – 4…"

In this regard, I note from the material available on record that on the following 5 instances, the trading member had incorrectly reported MTF Collaterals to the Exchange:

Sr. No.	Date	Client Code	Client PAN	Securities value as reported by TM under MTR file	Securities value as per DP Holding Statement	Difference
1	11-11-2021	Pxx0023	AKYxxxx55B	-	5,44,14,995.00	5,44,14,995.00
2	28-12-2021	Gxx5072	AAWxxxx81E	-	5,80,57,048.00	5,80,57,048.00
3	06-12-2021	Hxx772	APDxxxx42A	-	5,46,81,659.00	5,46,81,659.00
4	04-11-2021	Zxx343	AANxxxx01A	2,87,70,146.06	22,17,27,029.00	19,29,56,882.94
5	08-10-2021	GxxS533	AGUxxxx99G	-	3,64,19,029.00	3,64,19,029.00

Therefore, I note that total value of securities pledged as per DP Holding Statement was 42,52,99,760. I further note from the material available on record that total value securities value as reported by TM under MTR file was 2,87,70,146.06.

12.5.4. In this regard, I note that the Noticee has not provided any documentary evidence such as demat account statement to substantiate its submission that the value of Securities allocated for MTF Segment was 18,40,20,686. Therefore, the Noticee's submission is devoid of merit and hence not acceptable.

12.5.5. In view thereof, I find that the allegation that that trading member had incorrectly reported MTF Collaterals to the Exchange:- 5 clients 5 instances (Rs.39.65 crores), stands established. Therefore, I hold that the Noticee had violated Clause 19 of SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 and NSE circular NSE/COMP/35125 dated June 15, 2017 & NSE/COMP/35260 dated June 30, 2017, NSE/INSP/43069 dated December 31, 2019, NSE/INSP/43724 dated March 02, 2020, NSE/INSP/45191 dated July 31, 2020 and NSE/COMP/48531 dated June 09, 2021 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

12.6. **Finding F: Member had transferred to "Client unpaid securities account" those securities which are pertaining to credit balance clients:**

12.6.1. In this regard, it was inter alia observed and alleged that the trading member had transferred securities of Credit balance client to "Client unpaid securities account"

801 ISIN, Quantity: 5.37801 lakhs, Value: Rs 8.62 Crores of 3574 clients.

Accordingly, it was alleged that the Noticee had violated Clause 4.1 and 4.3 of SEBI circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 and NSE NSE/INSP/41359 dated 7 June 20, 2019, NSE NSE/INSP/42000 dated August 29, 2019, NSE/INSP/42052 dated September 04, 2019 and NSE/INSP/42229 dated September 27, 2019 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

12.6.2. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Clause 4.1 and 4.3 of SEBI circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019

"…

4.1The securities received in pay-out against which payment has been made by clients, shall be transferred to the demat account of the respective clients within one working day of the pay-out. Such securities shall be transferred directly from the pool account of the TM/CM to the demat account of the respective client.

…

4.3The securities kept in the 'client unpaid securities account' shall either be transferred to the demat account of the respective client upon fulfilment of client's funds obligation or shall be disposed off in the market by TM/CM within five trading days after the pay-out. The unpaid securities shall be sold from the Unique Client Code (UCC) of the respective client. Profit/loss on the sale transaction of the unpaid securities, if any, shall be transferred to/adjusted fromthe respective client account.

…"

Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992

"…

Conditions of registration.
9. Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-
(f) he shall at all times abide by the Code of Conduct as specifies in Schedule II;
...
SCHEDULE II: CODE OF CONDUCT FOR STOCK BROKERS
A. General

...

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

…"

12.6.3. In this regard, I note that SEBI Circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 reads as under:

"…*With regard to securities that have not been paid for in full by the clients (unpaid securities), a separate client account titled – "client unpaid securities account" shall be opened by the TM/CM. Unpaid securities shall be transferred to such "client unpaid securities account" from the pool account of the concerned TM/CM*…"

Further in this regard, I note that the broker had transferred the securities of credit balance clients to "Client unpaid securities account". Therefore, the Noticee's submission, "…*we have correctly held securities of credit balance clients who were having margin obligations due to which the client was in debit on an overall basis and hence it was essential to hold the stock in CUSA for risk management purpose…"* is devoid of merit and hence not acceptable.

12.6.4. In view thereof, I find that the allegation that the Noticee had transferred securities of Credit balance client to "Client unpaid securities account", stands established. Therefore, I hold that the Noticee had violated Clause 4.1 and 4.3 of SEBI circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated

June 20, 2019 and NSE NSE/INSP/41359 dated 7 June 20, 2019, NSE NSE/INSP/42000 dated August 29, 2019, NSE/INSP/42052 dated September 04, 2019 and NSE/INSP/42229 dated September 27, 2019 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

12.7. **Finding G: Investor Grievances (against DP)**

12.7.1. In this regard, it was inter alia observed and alleged that during the inspection period 26 complaints received directly from depositories were pending with TM for more than 30 days.

Accordingly, it was alleged that the Noticee had violated Regulation 72(1) of SEBI (Depositories and Participants) Regulations, 2018.

12.7.2. In this regard, I note that Regulation 72(1) of SEBI (Depositories and Participants) Regulations, 2018 reads as under:

"…

Redressal of investor grievances

Every issuer or its agent or any person who is registered as an intermediary under this regulation, shall redress the grievances of beneficial owners within thirty days of the date of receipt of the complaint and keep the depository informed about the number and nature of grievances redressed by it and the number of grievances pending before it.

…"

12.7.3. In this regard, I note that Noticee has submitted, "…*MOFSL denies that the same were pending for more than 30 days and the submissions of MOFSL in respect of the inspection observations has not been adequately considered while framing this allegation in the SCN…"* and "…*purported delay / pendency noted by the inspection team is a consequence of multiple correspondences and back and forth with client / exchange as the case maybe as a result of which the ageing of these complaints are seen has having crossed 30 days. It is submitted that in each of the 26 instances, the first response in all complaints were given by MOFSL well within the 30 day* *period, however, when multiple correspondences are exchanged, these complaints exceed the 30 day period…"*

12.7.4. In this regard, I note from the text of Regulation 72(1) of SEBI (Depositories and Participants) Regulations, 2018 that a depository participant shall redress the grievances of beneficial owners within thirty days of the date of receipt of the complaint.

12.7.5. In this regard, I note from the material available on record that 26 complaints were not resolved within a period of thirty days. Therefore, the Noticee's submissions are devoid of merit and hence not acceptable.

12.7.6. In view thereof, I find that the allegation that during the inspection period 26 complaints received directly from depositories were pending with TM for more than 30 days, stands established. Accordingly, I hold that the Noticee had violated Regulation 72(1) of SEBI (Depositories and Participants) Regulations, 2018.

12.8. **Finding H: Improper maintenance of Bank Books:**

12.8.1. In this regard, the following was inter alia observed and alleged:

- Narrations of the transactions were not correctly captured in the bank books.
- Headers of the bank books were incorrect - payments entries were entered under the receipt column and receipt entries were entered under the payment column.
- Single voucher number was mapped to multiple entries.

Accordingly, it was observed that the Noticee had violated Regulation 17 of SEBI (Stock Brokers) Regulations, 1992.

12.8.2. In this regard, I note that Regulation 17 of SEBI (Stock Brokers) Regulations, 1992 reads as under:

"…

To maintain proper books of account, records, etc.
17. (1) Every Stock Broker shall keep and maintain the following books of account, records and documents, namely:-
(a) Register of transactions (Sauda Book);
(b) Clients ledger;
(c) General ledger;
(d) Journals;
(e) Cash book;
(f) Bank pass book;
…"

12.8.3. In this regard, I note that as regards the allegation that narrations of the transactions were not correctly captured in the bank books, the Noticee's submissions are in nature of admission, in so far as the Noticee has submitted, "….*narrations in respect of transactions for fund transfers were mapped manually which may have contributed to grey areas or inability to identify certain transactions. In this regard, MOFSL has taken corrective action by enabling maker / checker mechanism to ensure correctness of narrations…"*

12.8.4. As regards the allegation that headers of the bank books were incorrect, the Noticee has submitted, "…*headers of bank books maintained by MOFSL are from a client's perspective and therefore there is no incorrect payment entry. It is submitted that header entries in bank book pertains to "to and from" fund movement from a client and hence "Receipt-Client" column of Bank book means funds received by customers from MOFSL and "Payment-Client" column of Bank book means funds paid by customers to MOFSL…"*

In this regard, having regard to the submissions of the Noticee, I am inclined to allow the befit of doubt to the Noticee.

12.8.5. As regards the allegation that single voucher number was mapped to multiple entries, the Noticee has submitted, "…*in majority instances payment is received from custodian through one UTR number which is allocated in back office against their various accounts. Accordingly, a common voucher number is allocated against similar type of entries. For instance, in case of entries pertaining to payouts and GST payable on the said transaction, a common voucher number is used as the same becomes identifiable for accounting purposes. Furthermore, it is necessary to state that in our back-office software, voucher number is created based on combination of Financial Year, Segment (CM/FO etc.), Voucher type (Receipt / Payment) and Bank book code (across multiple bank accounts) & Book Type. For this combination, system generates unique voucher number…"*

In this regard, I note that the Noticee is not maintaining unique voucher number for each transaction with respect to specific client as single voucher number was mapped to multiple entries. Therefore, the Noticee's contentions are devoid of merit and hence not acceptable.

12.8.6. In view thereof, I find that the allegations that narrations of the transactions were not correctly captured in the bank books and that single voucher number was mapped to multiple entries, stands established. Accordingly, I hold that the Noticee had violated Regulation 17 of SEBI (Stock Brokers) Regulations, 1992.

12.9. **Finding I: Analysis of settlement of funds of inactive clients:**

12.9.1. In this regard, the following was inter alia observed and alleged:

- TM while setting aside funds of Rs.3.50 crore belonging to 39 active clients, had shown incorrect reasons viz non-availability of client's bank account and non-traceability of client.

- With respect to one inactive client having UCC no. BPxx32, it was observed that TM had settled client's funds by making a journal entry in NON-MTF account instead of making direct payout to the client's account.

Accordingly, it was alleged that the Noticee had violated Clause 12(e) of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and BSE Notice No 20200210-47 dated 10, February 2020 read with Clause A(5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992; Clause 5.3 of SEBI circular SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

12.9.2. Here it would be relevant to refer to the text of the aforesaid provisions alleged to have been violated, which inter alia reads as under:

Clause 12(e) of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009

"…

Running Account Authorization

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

…

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

…"

Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016:

"…

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.
…"

12.9.3. In this regard, SEBI observed that during analysis of information w.r.t inactive client and set aside funds, provided in cash & cash equivalent, with respect to 39 clients, amounting to Rs. 3.50 Crore, TM had set aside the funds of clients where reasons such as non-availability of client's bank account and non-traceability of client does not exist.

12.9.4. In this regard, the Noticee has submitted, "…*it is submitted that the situation with respect to non – availability of the current bank account persisted in the case of all 39 clients observed in the present SCN. Copies of communications addressed to the concerned clients are enclosed herewith as Annexure – 8*…" and "…*these 39 clients are not active clients as alleged by SEBI in the SCN merely because an instance of trade or transaction occurring after the amounts were set aside in a separate bank account*…"

In this regard, I note from the material available on record that the said 39 clients had traded in the month of June 2022 but the said clients were considered as inactive clients by the Noticee and their funds were parked aside as on June 2022. Therefore, the Noticee's contention is devoid of merit and hence not acceptable.

12.9.5. As regards instance of one inactive client having UCC no. BPxx32, TM had settled client's funds by making a journal entry in NON-MTF account instead of making direct payout to the client's account.

12.9.6. In this regard, the Noticee has submitted, "…*it is submitted that* *observations pertaining to the same are in respect of transaction on July 4, 2022, which is beyond the Investigation Period in the present SCN…"*

In this regard, having regard to the contentions of the Noticee, I am inclined to allow the benefit of the doubt to the Noticee in this regard.

12.9.7. In view thereof, I find that the allegation that the Noticee while setting aside funds of Rs.3.50 crore belonging to 39 active clients, has shown incorrect reasons viz. non-availability of client's bank account and non-traceability of client, stands established. Therefore, I hold that the Noticee had violated Clause A(5) of Schedule II read with Regulation 9(f) of SEBI (Stock Brokers) Regulations, 1992 and Annexure A to NSE Circular NSE/COMP/48895 dated July 10, 2021.

Issue No. II: If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15HB, Section 15C and Section 15A(c) of the SEBI Act, 1992, and Section 23H of SCR Act, 1956?

13. As it has been established in the foregoing paragraphs that Noticee had violated the provisions of securities laws as alleged in the SCN and as reproduced below, the Noticee is liable for payment of a monetary penalty in terms of Section 15HB, Section 15C and Section 15A(c) of the SEBI Act, 1992.

13.1. Clause 1, 2, 3, 4, 5 and 6 of SEBI Circular No. CIR/DNPD/7/2011 dated August 10, 2011; Clause 4.1.2 of SEBI/HO/MIRSD/DOP/CIR/P/2019/139 dated, November 19, 2019; Clause 2.1 of SEBI/HO/MIRSD/DOP/CIR/P/2020/146 July 31, 2020; Clause 3 (xii) of SEBI/HO/CDMRD/DRMP/CIR/P/2016/80 dated September 07, 2016.

13.2. Clause 3.2 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016.

13.3. Clause 19 of SEBI circular CIR/MRD/DP/54/2017 dated June 13, 2017 and NSE circular NSE/COMP/35125 dated June 15, 2017 & NSE/COMP/35260 dated June 30, 2017, NSE/INSP/43069 dated December 31, 2019, NSE/INSP/43724 dated March 02, 2020, NSE/INSP/45191 dated July 31, 2020 and NSE/COMP/48531 dated June 09, 2021 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

13.4. Clause 4.1 and 4.3 of SEBI circular CIR/HO/MIRSD/DOP/CIR/P/2019/75 dated June 20, 2019 and NSE circulars NSE/INSP/41359 dated June 20, 2019, NSE/INSP/42000 dated August 29, 2019, NSE/INSP/42052 dated September 04, 2019 and NSE/INSP/42229 dated September 27, 2019 read with Clause A (5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992.

13.5. Regulation 72(1) of SEBI (Depositories and Participants) Regulations, 2018.

13.6. Regulation 17 of SEBI (Stock Brokers) Regulations, 1992.

13.7. Clause 12(e) of Annexure of SEBI Circular SEBI/MIRSD/SE/Cir-19/2009 dated December 03, 2009 and Clause 8.1 of Annexure of SEBI Circular SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 and BSE Notice No 20200210-47 dated 10, February 2020 read with Clause A(5) of Schedule II for Code of Conduct read with Regulation 9 of SEBI (Stock Brokers) Regulations, 1992; Clause 5.3 of SEBI circular SEBI/HO/MIRSD/DOP/P/CIR/2021/577 dated June 16, 2021.

14. In this regard, the Noticee in its submissions as reply to the SCN had inter alia cited the Hon'ble Securities Appellate Tribunal ('SAT') order dated 16.06.2011 in the matter of Religare Securities Limited Vs. SEBI (Appeal No. 23 of 2011) and placed reliance on the following text:

"5. It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/ deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."

In this regard, in my opinion each case is peculiar in its facts and circumstances based on which the violations are ascertained. Whether adjudication proceedings are to be initiated in a case would depend on the facts and circumstances of each case. I also note that, initiation of Adjudication proceedings under the appropriate provisions of SEBI Act is a regulatory prerogative of SEBI depending upon the outcome of such exercise viz., Inspection and findings thereof. It would also be relevant to state that the subject matter of instant proceedings are as per the Communique of appointment of AO, duly approved by the Competent Authority.

I also note from the text of Hon'ble SAT order dated 16.06.2011 as relied upon by the Noticee itself that Hon'ble SAT had inter alia held that "…*This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent…".*

Further in this regard, I also note that most of the alleged violations in respect of the Noticee are of extant applicable provisions of law as are otherwise applicable to the entire category of intermediary viz., Stock broker and Depository Participant in the instant case, and not just about minor procedural aspects specific to the Noticee only. Accordingly, these contentions of the Noticee in this regard cannot be accepted.

15. In this regard, it is noted that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) inter alia held that:

" ... 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 .... "

16. Therefore, for the above violations, as dealt with and brought out in the foregoing paragraphs, I find that the Noticee is liable for monetary penalty under Section 15HB, Section 15C and Section 15A(c) of the SEBI Act, 1992 which reads as under:

"…

SEBI Act, 1992

15A: Penalty for failure to furnish information, return, etc.

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

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to 69[a penalty 70[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]].

15C: Penalty for failure to redress investors' grievances

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

15HB: 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.…"

…"

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

17. While determining the quantum of penalty under Section 15HB, Section 15C and Section 15A(c) of the SEBI Act, 1992, it is important to consider the factors as stipulated in Section 15J of SEBI Act, 1992, which reads as under: -

SEBI Act, 1992

"………..

Factors to be taken into account while adjudging quantum of penalty.

15J. While adjudging quantum of penalty under 15- or section 11 or section 11B, the Board or 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 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 instant case, I note that the material available on record does not quantify any disproportionate gain or unfair advantage or consequent loss caused to an investor or group of investors as a result of the violations committed by the Noticee. As regards the repetitive nature of default, I note from SEBI website that Adjudication Orders dated December 31, 2024, April 29, 2022 and February 28, 2020 were passed in respect of Noticee imposing monetary penalty. I further note that Noticee being a SEBI registered Stock Broker and Depository Participant was required to comply with the applicable provisions of securities laws, which it had failed to comply with, as dealt with and brought out in the foregoing and which SEBI is duty bound to enforce compliance of. Such failure and non-compliances accordingly needs to be dealt with suitable penalty.

E. ORDER

19. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 r/w Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, I hereby impose a penalty of Rs. 7,00,000 (Rupees Seven Lakhs Only), as per Table below, on the Noticee, for the aforementioned violations, as discussed in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case:

Name of the Noticee	Penalty under Section	Penalty (in Rs.)
Motilal Oswal Financial Services Limited	Section 15A(c) of SEBI Act, 1992	1,00,000/- (Rupees One Lakh only)
	Section 15C of SEBI Act, 1992	1,00,000/- (Rupees One Lakh only)
	Section 15HB of SEBI Act, 1992	5,00,000/- (Rupees Five Lakhs only)

20. The Noticee shall remit /pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

21. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

22. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

DATE: January 30, 2025
PLACE: MUMBAI

AMAR NAVLANI
ADJUDICATING OFFICER